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AGENDA ITEM 5

ABUSE OF POWER: OFFENSES AND OFFENDERS BEYOND THE REACH OF LAW

POLICE CRIMES IN THE UNITED STATES

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Abuse of Power: Offenses and Offenders Beyond the Reach of Law

POLICE CRIMES IN THE UNITED STATES

"To some Negroes police have come to symbolize white power, white racism and white repression. And the fact is that many police do reflect and express these white attitudes. The atmosphere of hostility and cynicism is reinforced by a widespread belief among Negroes in the existence of police brutality and in a double standard of justice and protection--one for Negroes and one for whites."

--The National Advisory Commission on Civil Disorders, 1968, p. 11

"After the staccato of machine-gun fire had died down and firemen in riot-ravaged Miami quenched the last embers of blazes that had reduced scores of business buildings to charred shells, as street crews hosed off the blood of 14 people beaten or shot to death, and 3,800 National Guardsmen withdrew from patrolling a 40-block by 60-block area of the shaken city, the nation had been jolted anew into a realization that Black outrage at 'a double standard of justice' still remains near flash point in many U.S. cities. While high unemployment, the ruinous impact of inflation, resentment at all the public help given the still rising tide of refugees inundating southern Florida from Cuba--all fed the fury of the Miami area's 233,000 Blacks. Yet perhaps more clearly than in any other recent race conflict, the rage in Miami focused on police, prosecutors and the courts. (Emphasis added.)

--Time, June 2, 1980, p. 10

INTRODUCTION

The world is aware of the recent uprising of the Black citizens in Miami protesting the failure of an all-white jury to convict the police who brutally and unjustifiably murdered Arthur McDuffey. The world is not aware of the fact that McDuffey's murder is not an isolated incident. In fact, hundreds of Blacks and other minorities are killed by the police every year and their killers know that they can continue to maim, cripple and kill minorities without any expectation

of judicial reprimand or punishment because they operate behind the protective shield of racism.

McDuffey's murder differed from the thousands of unreported cases of police misconduct because enraged citizens took to the streets in open rebellion against police lawlessness and relentlessly exposed the facts of the case and managed to shatter the police efforts at a cover-up with the usual nomenclature of "justifiable homicide."

In an attempt to bring the racist and pervasive nature of police misconduct in the United States to the attention of the international community, this paper, ABUSE OF POWER: OFFENDERS AND OFFENSES BEYOND THE REACH OF THE LAW--POLICE CRIMES IN THE UNITED STATES, is being shared with you today at the Sixth United Nations Congress on Prevention of Crime and Treatment of Offenders.

The problem reaches every corner of America. And yet the American public, like the international community, is aware only of the most egregious and brutal abuses that garner the attention of the media. Seldom do local newspapers or national television provide information about its scope. If and when isolated incidents of gross abuses are reported, the primary source of information is the police department. Because police departments are considered more credible than the victims of abuse, the press and public media become unwitting tools to distort the truth and effectuate cover-ups by lawbreakers. Thus, what the majority culture views as an isolated incident which can be blamed on one or more "bad apples," the minority communities perceive as the reality of daily repression at the hands of the

agents of an oppressive economic and political system designed to keep them at the bottom of the social and economic ladder. Put another way, the white majority of America views the role of the police as protective while racial minorities view that role as dominating, repressive, and violent.

I. DEFINING THE PROBLEM

The police have unique power. They are the only representatives of governmental authority who in the ordinary course of events are legally permitted to arrest citizens and use physical force against them. Other agencies of state power rely upon request, persuasion, public opinion, custody, and legal and judicial processes to gain compliance with rules and laws. Only the police can use firearms to compel the citizen to obey. The police are also in a special category in that they are sworn to enforce the law at all times, on or off duty in most jurisdictions, so that their power to arrest citizens and their access to firearms is constant and legal.[1]

The most frequent targets of police abuse of power are the powerless in society: Blacks, Browns, Native Americans and other racial minorities, the poor, the young, and people who challenge the existing social, economic, or political order.[2] Various forms of police misconduct

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[1]Arthur L. Kobler, "Police Homicide in a Democracy," Journal of Social Sciences, v. 31, n. 1, Winter 1975, p. 163.

[2]Minority community witnesses told the National Minority Advisory Council on Criminal Justice that police often use excessive and deadly force against them to quell their political activities which are devoted to improving their status in American society; to evict people who are behind in their rent or mortgages; to arrest people who complain to or argue with a storekeeper who sells rotten foods at high prices. Minorities have watched police stand by or even aid in allowing right wing groups to beat, maim or kill minority peoples.

are widespread in the United States, ranging from extortions of false testimony and filing false charges against the victims to brutal beatings and the use of deadly force. Only when particularly atrocious incidents outrage an otherwise apathetic public is any official effort made to acknowledge the existence of a problem. And even in these few cases, the tragedy is that admission of a problem is substituted for a solution.

A survey in the Sourcebook of Criminal Justice Statistics reports that in 1975 third world peoples in the United States viewed the police more negatively than whites. Non-whites rated police performance "good" only half as often as whites; they used the rating "poor" twice as often.[3] Given the functional role the police serve in relation to the total society, these findings are not surprising.

> "In 1964, a New York Times study of Harlem showed that 43 percent of those questioned believed in the existence of police brutality. In 1965, a nationwide Gallup poll found that 35 percent of Negro men believed there was police brutality in their areas; 7 percent of white men thought so. In 1966, a survey conducted for the Senate Subcommittee on Executive Reorganization found that 60 percent of Watts Negroes aged 15 to 19 believed there was some police brutality. Half said they had witnessed such conduct. A University of California at Los Angeles study of the Watts area found that....74 percent (of Negro males) believed police use unnecessary force in making arrests. In 1967, an Urban League study of the Detroit riot area found that 82 percent believed there was some form of police brutality.[4]

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[3] Sourcebook of Criminal Justice Statistics, 1978, United States Department of Justice (Washington, D.C.), "Table 2.35 -- Ratings of Local Police by Demographic Characteristics, 13 Selected American Cities (Aggregate), 1975." p. 301.

[4] Report of the National Advisory Commission on Civil Disorders, Government Printing Office (Washington, D.C.) 1968, p. 158.

The cases selected for presentation in this report are illustrative of the deep and extensive nature of the problem. They reflect the outrage felt by the minority communities at the failure and unwillingness of governmental entities to remedy the situation.

The tensions and hostilities between police and minorities are further exacerbated by the system of economic exploitation in the United States which relegates minorities to the bottom of the barrel and relies on the police to keep them in their place. Minorities of all ages suffer greater unemployment than whites, but the 30-50% unemployment rate among inner-city youth which has existed for years creates a special problem that neither the local or national government has made a serious effort to address. Indeed, current government policy is designed to stimulate unemployment in order to slow inflation. And today's youth who are better educated and thus enter the job market believing they have a right to a job may "foreshadow a more assertive and rebellious generation of workers."[5] Thus increased unemployment brings with it increased community struggles confronting the inequities of the existing economic order, and increased community struggles are met with increased repression by police. It is a debilitating spiral downward that all too often leads to open rebellion, injury and death to those confronting the system that cripples their lives.

Whenever power is invested in persons, there exists the possibility of abuse. When the abusers of power comprise an entity, such as the law enforcement establishment in the United States and when, time and again, these abuses are not met with effective remedies, a

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[5]Paul Takagi, from his statement made to the consultation on "Police Practices and the Preservation of Civil Rights" sponsored by the United States Commission on Civil Rights, Washington, D.C., December 12-13, 1978, p. 34.

social problem of massive proportions develops. Under these conditions, it is inevitable that one segment of society--the powerless victims of pervasive police abuse--will view that abuse as lawlessness sanctioned by the ruling majority. Society is thus faced with offenses and offenders beyond the reach of the law.

II. OFFENSES AND VICTIMS

Police have used and continue to use unwarranted force which includes physical and/or psychological abuse shocking to the consciences of citizens living in a democratic society. All too often the targets of these acts are the powerless within the society and are members of racial minorities and poor communities.

Examples of such practices include, but are not limited to:

(1) Physically abusing people who have committed no crime;

(2) Physically abusing arrestees and prisoners who are awaiting trial;

(3) Physically or psychologically intimidating arrestees and prisoners to extract confessions;

(4) Verbally abusing and detaining people without proper cause;

(5) Conducting illegal searches and seizures;

(6) Killing people who have committed no crime;

(7) Killing people who are not threatening the lives of others (including those who are fleeing from apprehension)

(8) Engaging in practices to deliberately cover-up their own abuses of power and that of fellow officers.

The widespread nature of the problem is documented by the fact that upwards of 10,000 complaints involving denial of a citizen's rights by a law enforcement agent were submitted to the Civil Rights Division of the United States Department of Justice in 1977.[6] And the problem is increasing. In the six months between October 1979 and March 1980, the Department of Justice received 142% more complaints of police abuse of force than it had in the same time period a year before.[7]

Even these figures are misleading because many incidents of police brutality are never reported since victims fear additional harrassment or reprisal or even lawsuits by the police themselves. Some police unions file counter lawsuits anytime charges are brought against them.[8]

Not only is the enormity of police abuse overwhelming, but the racist nature of it is undeniable. There are currently no nationwide data kept on all forms of police abuse. Data on police-caused deaths are somewhat more adequate that on other types of misconduct and thus we shall use this data to demonstrate here the disproportionate impact of these practices on minority communities.

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[6]From a statement by Drew Days, Assistant Attorney General, Civil Rights Division, United States Department of Justice, at a consultation on "Police Practices and the Preservation of Civil Rights" sponsored by the United States Commission on Civil Rights, Washington, D.C., December 12-13, 1978, p. 139.

[7]Brian Hudson, "Police Abuse and National Unrest," The Guardian, June 25, 1980, p. 6.

[8]Thomas M. Rollins, "Mean Beats: Police Brutality in America," Politics Today, p. 50.

In the 7-year period, 1970-76, 2,392 civilians were killed by legal intervention, averaging 343 deaths per year.[9] During that same 7-year period, 851 law enforcement officers were killed, averaging 122 deaths per year. From these figures, we can see that about 3 citizens are killed for each officer killed. A recent study by Lawrence Sherman and Robert Langworthy reveals the figures for citizen deaths are being under-reported by at least 50%.[10] Thus the ratio of citizens to officers killed is more like 6:1.

Table A in the Appendix shows that 50% of the civilians killed from 1970 to 1976 were Black males. Black males make up only 6% of the United States population.[11] It should be noted that Hispanics are included in the figures for whites in Table A which is derived from Public Health Service data. If one adjusts the figures for whites by excluding Hispanics, the statistics indicate that Blacks have been killed at a rate 13 times higher than whites.[12]

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[9]Figures for the number of civilians killed by police have to be obtained from U.S. Public Health Service data. One indicator that killings and beatings of civilians by police are tacitly considered outside the framework of the justice system is that there are no statistics on these subjects in the U.S. Justice Department's Sourcebook of Criminal Justice Statistics. In contrast the Justice Department each year publishes two detailed sets of statistics about law enforcement agents who have been killed by citizens: one set in the Sourcebook and one set in a monograph entitled Law Enforcement Officers Killed.

[10]Lawrence W. Sherman and Robert H. Langworthy, "Measuring Homicide by Police Officers," The Journal of Criminal Law and Criminology, v. 70, n. 4, December 1979, p. 546-560.

[11]Blacks make up 12% of the U.S. population. We have estimated Black males are about half of that number to arrive at the 6% figure for Black male population.

[12]Paul Takagi, "Death by 'Police Intervention,'" A Community Concern: Police Use of Deadly Force, National Institute of Law Enforcement and Criminal Justice, Washington, D.C., p. 33.

Some people have tried to discredit this obvious discrepancy by arguing that Blacks have a higher arrest rate than whites.[13] This is done by comparing the percentage of Blacks killed by police to the percentage of Blacks arrested for violent crimes. To compare these two sets of statistics is totally inappropriate because victims of police use of deadly force cannot be equated with perpetrators of violent crimes. Kobler reports that 30% of the victims "were either involved in no criminal activity or in a misdemeanor....An additional 27% were engaged in property crimes including auto theft."[14] In a Philadelphia study covering a 9-year span, it was found that nearly 50% of the victims "were not engaged in any forcible felony or threatening serious bodily harm to the officer or others...."[15]

These findings reveal how ludicrous it is to compare the victims of police killings only with arrest rates for violent crimes. At most one should only compare victims with arrest rates for all categories of crime. Doing this, one finds that, while Blacks make up 50% of civilian deaths caused by police, Blacks only account for 26% of total

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[13] Donald J. Black and Albert J. Reiss, "Patterns of Behavior in Police and Citizen Transactions," in Charles E. Reasons and Jack L. Kuykendall (eds.), Race, Crime, and Society (Pacific Palisades, CA: Goodyear, 1972) p. 203; and Irvin Piliavin and Scott Briar, "Police Encounters with Juveniles," in Donald Cressey and David Ward (eds.), Delinquency, Crime, and Social Process (New York: Harper and Row, 1969), p. 159.

[14] Arthur Kobler, "Figures (and Perhaps Some Facts on Police Killings of Civilians in the United States, 1965-1969,"" from synopsis in A Community Concern: Police Use of Deadly Force, National Institute of Law Enforcement and Criminal Justice, Washington, D.C., p. 74.

[15] Statement of Anthony E. Jackson, Esq., Director, Police Project, Public Interest Law Center of Philadelphia, April 19, 1979, p. 1.

arrests.[16] The racist nature of the killings cannot be denied.

(1) Physical abuse of people who have committed no crime

Police engage in practices of inflicting severe physical injuries upon citizens who have committed no crimes whatsoever. These instances are provoked by the reckless abuse of power by the police. Their conduct and lack of regard for the rights of citizens is shocking, but seldom is it reprimanded and thus it continues. The following examples[17] illustrate this inexcusable practice; while the examples illustrate this category of offense, some also illustrate other offenses, such as filing charges in an attempt to blame the victim for the abuses perpetrated by the police.

> --Wasco, CA, October, 1977: A verbal exchange resulted in the arrest of five youths, who were beaten and handcuffed tightly causing wrist bruises. Mr. Ramirez, a Hispanic friend of one of the youth's father, attempted to investigate the processing of the youths, which was carried out in secrecy. A couple of days later, officers Emerson and Snead arrived at Ramirez' home without warrants, entered the property, and began to beat Ramirez with clubs. When Mrs. Ramirez attempted to hold her husband, officers began to beat Mrs. Ramirez. They also tossed the children into some rosebushes when the children attempted to aid their parents. Ramirez was never charged with anything and it was never specified why the officers had gone to his house.
>
> --Washington, D.C., 1977: Officers were stopping cars to check drivers' licenses. When one Black man was stopped, he and the officers became embroiled in a verbal confrontation. The man was then knocked down by officers, kneed in the face, restrained and taken to the police station. There the officers began calling the man names and he became angry and hit at one. He

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[16] See Tables A and B in the Appendix.

[17] For further information on any of the cases in this section, contact the author: Prof. Lennox Hinds, Rutgers University--University College, Department of Criminal Justice, Miller Hall, 14 College Avenue, New Brunswick, New Jersey 08903.

was put in a cell and subjected to further beating. The incidents at the police station were witnessed by a Black policeman who was willing to testify on the man's behalf. Charges of assaulting a police officer were dropped to prevent a public hearing at which one policeman would testify against another.

--Brownsville, TX, October, 1977: Mr. Beltran, a Hispanic, was an eyewitness to the police shooting of Ventura Flores. Two officers handcuffed Beltran and threw him to the ground. When he heard the shot that wounded Flores, he raised his head to get up, and Officer Hess kicked him in the face, causing abrasions.

--Bronx, NY, August, 1972: Two plainclothes policemen kidnapped a 20-year-old Golden Gloves boxer who was walking home. The officers roughed him up and forced him into a cab, drove him to a deserted area, beat him, and then as he fled, shot at him 11 times. The young man was a neighborhood hero and there were witnesses to the abduction. The District Attorney said the young man had done nothing wrong.

--Philadelphia, PA, 1977: A young Black man was beaten by 5 officers in view of 8 white witnesses. The young man begged to be told what crime he had committed, but was only clubbed repeatedly until he was unconscious. The victim was subsequently issued a citation, held in jail overnight, charged with resisting arrest, and assaulting three officers. Most of the witnesses did not know each other. One protested at the scene saying, "Don't think this is the end of it. You'll hear from us again." The officer responded indifferently, "Yeah, sister, just try it and see where it gets you." Other witnesses who called to complain got a similar verbal brush-off.

--Philadelphia, PA, February, 1977: Kevin McDermott, a 30-year-old with epilepsy, suffered a seizure on the street near his home. Officer Harold Singletary arrested and handcuffed him. Other officers responded to Singletary's call about a "demented man on Belfield Avenue." They denied Singletary his anti-epilepsy medication, beat him with batons, and jumped on him. After hospital treatment and lengthy detention, he was charged with aggravated assault and resisting arrest. The charges were dismissed. McDermott has filed a class action, still in its early stages, for relief against the police for failure to train and supervise officers to recognize symptoms of epilepsy and deal appropriately with epileptics.

--Philadelphia, PA, June 1976: A 25-year-old Hispanic, Louis Parrilla, was riding home with a friend after buying beer. Officers stopped the car, found the beer, and broke the bottle Parrilla was holding. When Parrilla protested, the officer grabbed him and punched him in the neck. When Parrilla's father and Anglo wife came to the police station, the police officer was apparently enraged at their presence; he then punched Parrilla in the right eye and beat him more. Parrilla was arrested for aggravated assault, resisting arrest, terroristic

threats and disorderly conduct. This was his first arrest. About 2 months later, the charges were dropped through a pretrial diversion program.

In Philadelphia, in 1975 40% of the citizens who filed complaints of police abuse with citizens' groups had no criminal charges lodged against them. But the examples show that, even when the citizens are not committing criminal acts, charges are often filed against them to cover for police abuse. Between January 1968 and July 1970, only 22% of those charged with assault and battery on police officers or resisting arrest were found or pled guilty.[18] These figures give additional proof of the extensive nature of the totally unnecessary and arbitrary use of power by law enforcement agents--and to their efforts to cover-up their misdeeds.

(2) Physical abuse of arrestees and prisoners who are awaiting trial

Police officers engage in the use of excessive and unnecessary force before, during, and after the process of arresting citizens. This unwarranted use of force is illustrated by the following cases:

--Louisville, KY, June 1979: Fred Harris, a 23-year-old Black man, was stopped by police who searched his car trunk. They handcuffed Harris without telling him that he was under arrest and hit him in the stomach with their flashlights. When he raised his leg to stop the blows, the flashlight broke on his knee. He was then hit in the face with the broken flashlight. This last blow made it necessary for doctors to remove Harris' eye. His bowels were paralyzed by the blows to his stomach. Harris was charged with theft of parts o an abandoned car which had been marked "junked vehicle" by the city.

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[18] Figures from answers to interrogatories in the case United States v. City of Philadelphia et al., Civil Action No. 79-2937, Eastern District Court of Pennsylvania.

--Boston, MA, December 1979: Bellana Borde, a 21-year-old Black woman, decided to wait for the bus inside the entry foyer of an apartment building because it was such a cold, wintry day. A security guard saw her and called the police. When the police arrived, she tried to leave but instead was handcuffed, knocked to the ground, kneed in her stomach and breast by the officer who arrested her for trespassing. In the car on the way to the police station, the officer pinched her legs. At the station, when Ms. Borde refused to give her name, saying that she had done nothing wrong, the officer stood on her feet. She was then placed in a holding cell and the officer came in and sprayed mace in her face and slammed her against the wall. At that point Ms. Borde bit the officer's finger to get him to stop torturing her. The charges against Ms. Borde were dropped by Judge Harry Elam who said, "With all the crime in this state, I am appalled that I am here today because a police officer of 29 years [experience] doesn't have the judgment to say to a security guard with no experience and no training that this woman is just waiting for the bus."[19]

--Albuquerque, NM, July 1977: After being arrested, Mr. Moya, a Hispanic man, ran into his house. Police kicked the door in. Officer Babich went over to Mr. Moya who had made no movement (according to Babich's own testimony) and struck him over the head with a flashlight. After being dragged outside and beaten repeatedly with the flashlight, officers reported that Mr. Moya grabbed for the officer's gun. Officer Torbett choked Mr. Moya until he passed out. Mr. Moya was convicted and sentenced; no action was taken against either officer. Before Mr. Moya was sentenced, Officer Babich killed Andrew Ramirez in a similar flashlight beating.

--Gordon, NE, September 1976: Mrs. JoAnn Yellow Bird, a Native American woman who was 8-months pregnant, was kicked in the abdomen when she attempted to intervene in a fight between an officer and her brother. Her baby was later born dead. The officer stated in a deposition the "higher class people" in Gordon receive preferential treatment from law enforcement agents. "Higher class people" meant "white people," the officer stated.[20]

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[19]"Up Against the Law," Equal Times: Boston's Newspaper for Working Women, v. 5, n. 80, February 3, 1980, p. 9

[20]"Gordon Police Told Not to Stop Couple, Ex-officer Testifies," North Platte Telegraph, North Platte, Nebraska, July 2, 1979.

--Detroit, MI, February 1980: Fred Warren, 39 was found dead in his cell a few hours after he was arrested for burglary. Two prisoners in the cell block charge that Warren was struck with a blackjack after he spit on a officer. When citizens began raising questions about Warren's death, it was discovered that electric cattle prods had been used on numerous occasions on prisoners in the Second Precinct. This precinct is made up primarily of Mexican-Americans and Appalachian whites.

--Philadelphia, PA, May 1977: Edward Duck, a 23-year-old Black who works as a potter, was driving on Chestnut Street when he was stopped for a traffic violation. He was with a white woman. The two officers who stopped him fractured his nose and handcuffed him so tightly that he suffered nerve damage to his right hand. Duck was charged with disorderly conduct but acquitted.

--Philadelphia, PA, January 1977: Richard Canady was arrested and taken to the Police Administration Building. Canady was placed in a cell and later handcuffed to a chair. While handcuffed, Canady was punched and beaten by Detective Chitwood and Detective Strohm.

--Philadelphia, PA: Kevin Carter, 17 Black male, reported that he was taken from the House of Corrections to the 35th District for a hearing and put in a cellblock with James Gaddy. He was taken from the prison with William Bolden. After the hearing, when he was put back in the cell, the officers came to unlock the cells and transport them back to the House of Corrections. Officer Seddon grabbed him by the shoulders and threw him against the bars saying, "Put your hands up." He then began patting down his legs.

Carter told Seddon that he had stitches in his leg. The officer then said: "Shut the fuck up. This is my turf." He grabbed the area on the left leg where the stitches were. Carter complained again that he had stitches in the leg. Then Officer Wolk grabbed him by the front of the shirt and choked him. When Wolk let go, Seddon grabbed him again and hit him repeatedly in the left leg. Cuffs were then put on Carter and he was taken out of the cellblock. Seddon then pushed Carter into the doorway as they were leaving the building and said: "Oops, better watch where you are walking." Carter was then taken to the wagon. The other prisoners in the wagon were handcuffed together but Carter was handcuffed alone with his hands behind him. He was pushed by Officer Wolk as he climbed into the wagon and fell all the way to the front. Carter then sat on a bench at the back of the wagon and Seddon came up and said, "You're a wise ass, aren't you?" Then Seddon poked him in the face with a

finger. Carter told the officer to leave him alone. Seddon then said, "Come here, smart ass, we're going to teach you a lesson."

Carter was then pulled from the wagon by his arms and taken back into the police station to the empty courtroom. Seddon threw him into the chair and he fell down. Seddon jumped on top of him with his knees in his chest, hands around his neck, choking him saying, "Don't you know I'll kill you, nigger?" Seddon kept shaking him. Officer Wolk was walking around kicking him in the back and sides and told Seddon to take the handcuffs off Carter. Wolk then pulled Carter up off the floor saying, "Put your hands up, punk, put your hands up." Carter said, "No,man, I told you I'm not going to fight."

A sergeant walked in. Carter asked him to tell the officers to stop; the officer left. Wolk then put the handcuffs back on Carter very tight and Seddon, as they were leaving the building, said, "I thought we had a hard guy. He's a pussy. You know where we stand, right." Carter was then put back in the wagon and all prisoners were driven to the detention center. The other inmates were taken out of the wagon at the detention center, but Officer Wolk closed the door on Carter, saying, "Hold on, chump, you're going for a ride." Then the officer got into the wagon, stepped on the gas, slammed on the brakes, and Carter flew all the way to the front of the wagon. This happened twice. Then Carter was taken into the House of Corrections.

The examples cited above, horrible as they are, represent only a minute number of the thousands of victims of such abuse. The results of a study in one American city, which we believe can be replicated across the country, is included below to demonstrate the pervasive nature of this problem. This data, in addition to the examples above, clearly provide evidence of the heavy impact of police brutality upon members of oppressed minorities.[21]

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[21] The data is taken from answers to interrogatories in the case, United States of America v. City of Philadelphia (note 18 supra). Data of this sort is available for each of the categories of offenses discussed in this paper. We are only including this one set just to convey the enormity of the problem of law enforcement officers who abuse their power.

Citizens Who Have Suffered Physical Abuse at the Hands of Philadelphia Police Officers While Being Arrested or Held for Trial

Name	Date of Incident	Race of Victim
Edward David	7/14/74	Black
Joseph Lee O'Neill	1/8/75	Black
Gregory Gallman	12/27/74	Black
Louis Africa	1/23/75	Black
Alberta Africa	1/12/75	Black
John J. Cush, a/k/a John E. Cush	8/17/73	White
Carmine DeNardis	3/9/75	White
Garfield Hedgman	4/17/75	Black
SunduSu Mohammad Loroma	6/18/75	Black
Edward Patrick Fields	7/11/75	White
Edward John Douglas	7/11/75	White
Kenneth Eugene Shostak	7/11/75	White
Paul Joseph Tannello	9/18/75	White
Veloso Jackson	9/24/75	Black
William Rot Hoskins	11/5/75	Black
John Joseph Naulty	11/16/75	White
James Warren Wyatt	11/20/75	Black
Leon Harasmowicz	6/27/76	White
William Robert Hanna, Sr.	12/15/76	White
William Robert Hanna, Jr.	12/15/76	White
Earl Franklin	9/28/76	Black
Robert Jackson	1/3/79	Black
William L. Cradle	4/29/77	Black
Richard James Rozanski	12/29/77	Black
Joseph James Kedra	12/22/75	White
Michael John Kedra	12/22/75	White
Patricia Kedra	12/22/75	White
Kenneth Kedra	12/22/75	White
John Andrew Clifton	4/22/77	Black
Bernard Cyril Meaton	6/12/76	White
Alvestuse Goode	4/26/77	Black
John J. Copelella	5/24/77	White
Robert Crenshaw	8/23/76	White
Joseph Bross	8/23/76	White
George Cassidy	8/23/76	White
John Moore	1/15/77	Black
Ronald E. Anderson	4/25/77	White
Charles Edward Thomas	3/5/77	White
Ralph Wynder		
Sheik Bishara Bey	6/15/77	Moorish/American
Theodore Pendergrass	11/22/76	Black
Clemon Jo Perry	12/21/76	Black
Everett J. Day	3/1/77	Black

- continued -

Name	Date of Incident	Race of Victim
William H. Williams	6/15/77	White
Edgarpo Ralph Ortiz	6/18/77	White
Phillip Shepard Young	10/6/76	Black
Robert Rodriguez	1/12/76	Puerto Rican
Perry Joseph King	Easter Sunday 1976	Black
Michael Wilber	3/24/77	White
Maryanne Hornberger	6/30/77	White
Mark Kenny	5/13/77	White
Louis Roach	3/16/72	White
Joseph Ronald Bilhardt	9/19/76	White
Jon Davis Kennedy	11/1/75	Black
John Wardlow	6/9/73	Black
William Henderson Meekins	7/3/77	Black
Charles A. Murray	8/28/76	White
Delores Terry	8/2/75	Black
Clarence Terry, Sr.	8/2/75	Black
Clarence Terry, Jr.	8/2/75	Black
Andre Terry	8/2/75	Black
Tyrone Terry	8/2/75	Black
John States McKinney	6/5/66	White
Samuel D. Jackson	8/18/77	Black
Robert Thomas	6/21/77	Black
Geo Robinson	6/22/77	Black
Joseph J. Berthesi	8/27/77	Black
Kevin Zienkewica	8/13/77	White
Howard Seiss	8/20/77	White
Leroy Davis	8/31/77	Black
Melvin S. Stacks	8/11/77	Black
Annette Bush	9/1/77	Black
Lindell Swinson	9/20/77	Black
Raymond S. Pratt	9/8/77	Black
Steven Borek	9/26/77	Black
Leroy Smith	12/16/75	Black
Lawrence Joseph O'Neill	10/1/77	White
Peter Frycyk	11/3/77	White
John Joseph Quinn	11/3/77	White
Augustine Acevedo	11/3/77	White
Royal Oscar Chambers, Jr.	11/19/77	Black
Joseph James Ebbinger	9/28/76	White
Margaret Dolores Ebbinger	9/28/76	Black
Arthur M. Smith	12/3/78	Black
John Bans Lima, Sr.	10/16/77	Black
William Thomas Kane	10/5/77	White
Joseph Lee Grace	2/2/78	Black
Joseph Rouse, Jr.	12/9/75	Black
Norman Wojciechowski	9/5/77	

- continued -

Name	Date of Incident	Race of Victim
Arthur Reid	4/2/78	Black
Lesley Charles Beasley	3/29/78	Black
Steven P. Newman	5/15/78	
Robert Lawhorn	5/13/78	Black
Mark Lamar Golden	11/20-21/71	Black
Franco Philip Montenegro	5/29/78	
William Paul Macchianerna	7/30/78	White
Harry Joseph Charlesworth	8/6/78	White
Delbert Orr Africa	8/10/78	Black
Cornell Warren (Deceased)	9/23/78	Black
Harry Joseph Burt	12/12/78	
Frank Clarence Leans	1/24/79	White
Will M. Claxton, Sr.	8/28/78	Black
Victoria Dawn Heffernan	2/25/79	White
Barry Young	6/15/77	Black
Jon Lelyn Douglas	2/28/77	Black
Monserate Colon	5/6/77	Hispanic
Thomas J. O'Connor	6/76	
Randolph Pitts	7/2/76	
Angel Sanchez	5/7/76	
William Simmans	10/2/76	
Stephen Barkley	5/30/76	

(3) Physical or psychological intimidation of arrestees and prisoners to extract confessions

The Philadelphia Inquirer

> ...documented that between 1974 and 1977, at least 80 criminal cases (of the 433 that the newspaper examined) were thrown out of court because of the tactics police used during interrogations to extract statements and confessions from suspects. Many of their grillings had gone on for as long as nine hours. And come of these 'illegally interrogated' suspects ended up in hospitals. Spencer Coxe of the American Civil Liberties Union in Philadelphia is convinced that: 'abuse is...the policy of the department....Torture has been practiced....Judges know it.'"[22]

Case examples of physical intimidation to extract confessions are:

[22] Thomas M. Rollins, "Mean Beats: Police Brutality in America," Politics Today, p. 49. Rollins points out that six detectives convicted of criminal charges for excessive use of force during interrogations are still working for the Philadelphia police.

--Philadelphia, PA: Norman Legg, a 24-year-old Black male, complained that his left arm was handcuffed to a chair while he was interrogated; that he was kicked in both legs, burned with a cigarette on the back of his left hand and forearm, hit in the back with a chair, and choked until he blanked out. These measures were taken by Detective Robert Murphy in a 12-hour attempt to get Legg to make a statement and sign it.

--Philadelphia, PA, December 1975: Joseph Rouse was punched in the jaw after he refused to sign a statement admitting a theft.

--Philadelphia, PA, 1976 or early 1977: Joseph Bilhardt said detectives punched him in the ribs, chest, and lower back while his right arm was stretched out and his left arm was handcuffed to a chair. This beating occurred for a couple of hours because he refused to answer questions until a lawyer was contacted on his behalf. His head was pounded with a book until he gave a statement.

In South Dakota, FBI agents utilized a form of psychological intimidation to obtain testimony from a Native American woman. She was shown the autopsy pictures of a murdered woman and told that she and her children would suffer a similar fate if she didn't give false testimony at a trial.

(4) Verbal abuse and detention of people without proper cause

Stopping and holding people without cause and calling them names does not rank with maiming and killing. But, precisely because it is of a less violent nature, it is frequently used, becoming the daily fare of millions of Blacks, Browns, Native Americans, and other minorities and poor people. Several examples related to this category have already been given above under other categories. Some additional examples are:

--Washington, D.C., July 1980: A young Black mother with a child was standing on a curb. A white police officer who was backing up his cruiser told her to move. She indicated she was on the sidewalk and didn't need to move, to which he replied, "Fuck you, bitch."

--Omaha, NE, May 1980: Helen Hiatt, a Native American woman, was stopped by officers looking for a Spanish-speaking suspect. Ms. Hiatt was taken to the police station and questioned at length with officers insisting that she was able to speak Spanish.

--Los Angeles, CA: Gilbert Castillo, a light-skinned Chicano, came out of a movie and was asked for identification by an officer. When the officer read his name, he asked derogatorily, "You Mexican?" The officer threw Castillo's identification on the ground and ordered him to pick it up and leave.

The following example from Philadelphia files "plainly grew out of improper police persistence in a confrontation, and erroneous police views that 'boisterous' expression of resentment and peaceable departure when the police desire to continue questioning amount to offenses for which they may and should arrest."[23]

> "Police stop to question two black men pushing an automobile on a lot. They are told that the automobile has just been purchased by the father and brother of one of them, the purchasers having just gone off to a notary to conclude the formalities. The father and brother return with the seller, a white man, who confirms that there is no occasion for police concern. The police nevertheless insist on 'identification.' According to the police account itself, the brother became indignant, loud, and disrespectful, but not profane or physically aggressive. The police then made the critical decision, to 'take the whole job [that is, all four men] into the district where we can settle this quietly.' The brother then walked away towards his own car and drove off. He was followed by police cars, stopped, and severely beaten in the course of arrest. The arresting police and, later, the police investigator in his report, indicated that the arrest was proper on the ground that the complainant walked away from the police when they had indicated they proposed to take him into the district 'for investigation.'"[24]

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[23]Louis B. Schwartz, "Complaints against the Police: Experience of the Community Rights Division of the Philadelphia District Attorney's Office," University of Pennsylvania Law Review, v.118:1023, 1970, p. 1033.

[24]Schwartz, p. 1032-1033.

(5) Illegal searches and seizures

In 1978-79, the rampant misuse of illegal strip search procedures by the Chicago Police Department was exposed. The victims were women, many of whom had not even been arrested. It is interesting to note that this practice had gone unchecked for many years. Only because the police unknowingly selected as one of their victims the wife of a white judge did the matter get brought to the attention of the public.

The judge's wife had been arguing with a taxi driver about a cab fare. Police called to the scene took her to the station where she was subjected to a strip search. Even the judge's wife felt so humiliated by the incident that she, at first, was frightened into silence. Fortunately she protested and, once she did, large numbers of victims of this same police crime emerged out of their fearful silence.

The Illinois chapter of the American Civil Liberties Union received some 200 calls. "Women in their sixties reported being strip-searched. Disabled women were strip-searched. One woman was arrested because she was with a known crime figure. He was patted down. She was strip-searched."[25]

This particular example of abuse of power by law enforcement agents points again to the fact that the victims selected are members of the powerless groups in the United States. Only because one of the victims happened to belong to the powerful segment of society did this matter become a concern needing correction. The Chicago

[25]"Chicago Police Methods Exposed," Ms. Magazine, June 1979, p. 23.

Police Department adopted a new set of guidelines on strip-searches and state legislation was introduced to curb these offenses.

Notwithstanding the availability of constitutional protections against illegal searches and seizures,[26] the stark reality of daily existence in the ghettos and barrios throughout the United States evidences a constant and flagrant disregard of those protections for minorities. In fact, the police often break into homes of minority citizens with no search warrants and questionable justification.[27] Moreover, while the "exclusionary rule" has never served as an effective deterrent to these abuses, the United States Supreme Court in recent cases have limited the access to the courts by such victims,[28] resulting in a further insulation of the police from judicial review arising out of constitutional deprivations perpetrated by police.

(6) Killing people who have committed no crime

Killing of citizens by police is, of course, the most serious offense for there is no way a person's life can be restored. To kill a person who has committed no crime is doubly inexcusable.

Figures collected by the Public Interest Law Center of Philadelphia (PILCOP) reveal that between 1970 and 1978, "50% of Philadelphia police shootings were contrary to state law....the Philadelphia Police Department, on the average of once every two weeks, shoots a citizen who is

[26]The U.S. Supreme Court in the landmark decision in Mapp v. Ohio, 367 U.S. 643 (1961) read the exclusionary rule into the Fourth Amendment, as incorporated against the states: "The exclusionary rule is an essential part of both the Fourth and Fourteenth Amendments...."

[27]See examples of Mr. Ramirez in category (1) and Mr. Morris in category (6)

[28]See Stone v. Powell, 428 U.S. 465 (1976).

either engaged in no crime, or is charged with non-forcible felonies or misdemeanors."[29] In Philadelphia 2 out of 3 victims of police killings are Black or Hispanic; the same is true in Los Angeles. Again we see incontrovertible evidence that police crimes impact most severely on members of the oppressed minority communities.

> --Los Angeles, July 1980: Larry Morris, a 28-year-old Black man, was choked to death in the bathroom of his own apartment by police who had illegally entered his apartment. There had been no illegal activity in progress nor could any be inferred from the conduct of the individuals in front of the apartment. The police had heard firecrackers and asked Morris' brother, who was on a second floor balcony, "Hey, boy, where are the firecrackers?" When the brother replied that he wasn't a "boy," the officers charged into the apartment building and forced their way into the Morris apartment. A witness described the scene: "The cops came in...and we went into the bathroom. The next thing I saw was the police who had Larry's head hanging over the toilet bowl, with clubs on his neck and in his stomach....We didn't hear any arguing, no shouting. He had never been in trouble. He wasn't that kind. He didn't fight back, he didn't have the chance."[30]
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> --Boston, MA, July 1980: Levi Hart, a 14-year-old Black youth, was shot and killed while being arrested for alleged car theft. Levi Hart was a slow learner student, a "little thin guy," whom police say tried to grab the policeman's gun. People who knew Levi Hart do not believe the police story.
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> --Philadelphia, PA, 1980: Breaking into a home to investigate a gas leak, police killed a 94-year-old man armed with a starting pistol.
>
> --Omaha, NE, August 1979: On orders to stop a car with Iowa license plates with three whites in it, police stopped a car with Nebraska plates driven by an unarmed 27-year-old Black man and killed him.
>
> --Laredo, TX, July 1978: A 32-year-old Mexican citizen was killed at the border by an off-duty policeman. The officer held a shotgun to the victim's head while searching his companions, and the gun "went off."
>
> --Seattle, June 1978: A Black man, 21-years-old, was shot in the back and killed by a police officer. There was not even a claim that the man was armed or dangerous.

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[29] Anthony Jackson, note 15 supra, p. 3.

[30] "L.A. Cops Use of Deadly Force Rises," The Guardian, July 23, 1980, p. 7.

(7) Killing people who are not threatening the lives of others, including those fleeing from apprehension where failure to apprehend poses no serious threat to the lives of others

Police officers engage in irresponsible and unjustified use of deadly force when people are not threatening the lives of others or are not fleeing from arrest. Even in cases when people are fleeing from arrest, if such flight prevents immediate apprehension but does not pose any serious threat to the lives of others, the use of deadly force is unnecessary. It is true that some states have laws permitting police to shoot anyone who flees from arrest, but stolen or damaged property should not be seen as more valuable than a person's life. Thus we submit that deadly force should only be used when there is an immediate threat to the life of others.

--Birmingham, AL, August, 1979: A 20-year-old Black woman, unarmed, was murdered by police investigating a disturbance at a grocery store in a Black community.

--Los Angeles, December, 1979: A Black youth, 16-years-old, was shot in the head and killed by police after climbing on a fence near the home of a person who was under police protection.

--New York City, August, 1979: A 26-year-old Hispanic man was shot 21 times by five police officers. He had allegedly threatened them with a pair of scissors.

--Los Angeles, CA, January, 1979: A Black woman hit a representative of the utilities company with a shovel when he came to turn off her gas. The police were summoned. When the police arrived, the woman brandished a knife. Two officers each fired six rounds at her.

--Flint, MI, July, 1980: A 15-year-old Black youth was shot in the back of the head by a policeman who said the youth did not halt while allegedly leaving the scene of a burglary.

(8) Engaging in practices to deliberately cover-up their own abuses of power and that of fellow officers

Illustrations of extensive use of cover-charges by police have been included in previous categories above. An additional example is found in the next section. A few officers are beginning to break the "code of silence" and speak out about misconduct by their fellow officers. If an officer protests only within his department, administrators often ignore such protests. Furthermore, the officer who is courageous enough to speak out is usually subjected to harrassment by his colleagues.[31]

One tactic used by police to cover-up killings is known as the "throw-away gun." This involves police planting on the victim a gun which will not be easily traced to the officers. One such case occurred in Houston, Texas in February 1977. A 17-year-old was shot by one officer as the youth was held on the ground by another officer. To make it appear that the victim had been armed so the officers could claim self-defense, a 22-caliber pistol was planted on the body. Eventually the gun was traced to the police property room; it was one of a number of weapons supposedly destroyed in 1968.

Cover-charging, failure to speak out or actually giving false accounts of events in order to protect fellow officers, and creation of false evidence are some of the crimes police engage in to hide their own misdeeds.

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[31] Lawrence Sherman, "The Breakdown of the Police Code of Silence," Criminal Law Bulletin, Mar./Apr. 1978.

III. MYTHICAL REMEDIES UNDER THE LAW

Throughout the history of the United States, law has been the politically motivated instrumentality of racism. It has been used both overtly and covertly to enforce and legitimize enslavement, segregation, murder, and theft of land as well as for systematic political, social and economic oppression of minorities...As a Black lawyer, teacher, and student of history, this author could no longer participate without comment in the illusions of justice, in that endless and intricate labyrinth of legal process which holds tantalizing promises of relief, but which in practice merely validates the results of proceedings tainted with racism and political expediency.

A. Criminal Sanctions

Because of the interrelated roles of the police and the District Attorney's Office, that Office has not been and cannot be an effective instrument for controlling police violence.[32]

In theory, police misconduct can be deterred by the possibility that an officer may be prosecuted under state criminal statutes for complaints ranging from murder in the first degree to simple assault and battery. Also, federal statutes provide for the imposition of criminal sanctions under 18 U.S.C. §241-242.[33] But police agencies in the United States make the arrests and gather the evidence upon which government prosecutors rely. Consequently, under these circumstances, District Attorneys and U.S. Attorneys are reluctant to

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[32] Louis B. Schwartz, note 23 supra, p. 1024.

[33] The legislative history of 18 U.S.C. §241-242 demonstrates that, although these provisions were designed to provide protection to all inhabitants of the United States without regard to race, the level of violence visited upon Black citizens in the southern states continued to rise. Congress finally passed the Klu Klux Klan Act, 17 Stat. 13 (1871) in a further attempt to address the problem. Notwithstanding these provisions, Black citizens continued to suffer severe deprivations of their constitutional rights under the color of law--and they still suffer today.

prosecute officers upon whom they must depend for the successful completion of other prosecution they initiate. Thus an atmosphere of protection from external investigation settles in, and the police, unlike other citizens, are freed from the fear of punishment. Prosecutors exercise their discretion by not filing charges against officers whose actions make them liable for criminal prosecution.

Illustrative of the degree of hesitancy of prosecutors to file charges against police officers is the fact that there were no indictments against police officers in Los Angeles from 1950 to 1967. When this lack of prosecution is coupled with the fact that a majority of the victims were non-white, it is apparent why minorities view the courts and law enforcement establishment in the United States as being indistinguishable.

Prosecutors also collaborate with police in filing "cover charges"--i.e., charges against the victims of police abuse rather than charges against those who perpetrated the brutality. A vivid example of cover-charging is the case of Wallace Davis, a 25-year-old Black man living in Chicago. Davis had surprised two men in the act of robbing the restaurant he owned and called the police for assistance. The police did not respond promptly to the call and the robbers managed to flee. Finally Davis left his business, only to have the police arrive and assume he was one of the culprits. He tried to explain that he was the owner of the restaurant, but complied with the officers' orders. After the officer searched Davis, he was kicked to the ground and shot in the back. As Davis pled with the officer not to shoot or kick him again, the officer put his gun between Davis' eyes and said, "Die, Nigger, die or else I'll kill you." Subsequently, charges

were filed against him for attempted murder. No criminal charges have been placed against the officer involved in the shooting.[34]

Even if the intrinsic conflicts of interest arising from the interrelated roles of prosecutors and police officers in prosecutions of police crimes were aboted, the federal criminal statutes, 18 U.S.C. §241,242, were never designed adequately to curb the widespread, arbitrary and unreasonable physical abuse described in the preceding section of this paper. U.S. Federal District Judge Jon O. Newman has pointed out the limitation of those statutes which make it difficult to successfully prosecute a criminal case against law enforcement agents under these statutes: the statute "requires not only evidence that a constitutional right was denied, but proof beyond a reasonable doubt that the wrongdoer acted with apecific intent to deny such a right. That requirement, never easily met, coupled with the understandable reluctance of jurors to brand as criminals those who, however misguidedly, are seeking to enforce the law, assures that, even when prosecutions are brought, convictions will be rare."[35]

The process of insulating police from external investigation and imposition of sanctions if further entrenched by the investigative processes used in the few cases where charges are filed. Police departments and the officers within these departments have initiated, approved, enforced and pursued internal investigative practices and procedures which are calculated to and do result in the acquiescence

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[34] Payne, Ethel L., "The Judge Said 'No,'" The Chicago Defender, Oct. 14, 1977.

[35] Jon O. Newman, "Suing the Lawbreakers: Proposals to Strengthen the Section 1983 Damage Remedy for Law Enforcers' Misconduct," Yale Law Journal, v. 87, n. 3, January 1978, p. 449-450.

to and approval of denials of citizens' rights by police officers.[36]

One researcher[37] discusses the following investigative procedures which constitute additional protections for police against successful prosecution by the District Attorney's Office:

1. An unusually heavy initiative and burden of proof is placed on the complainant. It is customary that, when a complaint of criminal conduct is made against anyone other than a police officer, a positive effort is made to follow-up, find supporting witnesses, and so forth. In the case of complaints against the police, the bulk of the file is made up of statements by police witnesses.
2. Witnesses against the police are generally examined in a hostile atmosphere and their testimony unfairly deprecated.
3. Police never take lie detector tests and always insist that the complainant take one. Refusal by officers to take lie detector tests, even those administered by the police department itself, is understandable in light of the refusal of the

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[36] Police investigations of police are not and cannot be neutral. They tend to be defensive of the police and slanted against complainants. Assuming that investigating officers are attempting to do a good job in most cases, the conflict of interest which frustrates a fair and credible disposition of citizens' complaints by the District Attorney's office operates even more strongly when the police department investigates itself on complaints filed by persons whom the police department has already identified as violent criminals, some with long records. The investigating officers or the commanding officers who report on the incident are often superiors who have previously given favorable performance ratings to the subject policeman and who are likely to continue in a daily working relationship with him.

[37] Schwartz, note 23 supra, p. 1028-1031.

Fraternal Order of Police to supply free counsel to an accused police officer if he submits to such a test.[38] When a complainant agrees to take a test, it is administered by a police lieutenant under circumstances not disclosed in the files. The lieutenant's report of the complainant's performance is entirely summary: "Complainant appears to be lying."

4. While the police investigators are free to interview anyone during the course of the investigation, officers involved in an incident of police brutality are under orders not to talk with anyone outside the police department while the investigation is pending. This restraint prevents the complainant from acquiring a freshly recalled account of what happened, even though the police can obtain such an account. By the time anyone else is allowed to interview the accused officer(s), the insulation has solidified, contradictions have been ironed out, and informal pressures have been brought to bear on fellow officers to keep them from saying anything which would prejudice the hearing against the officer.

Notwithstanding the availability of the criminal statutes which provide relief from violations of law at the hands of law enforcement agents, very few officers are convicted and, if convicted, the sentences imposed are so inappropriate the victims and the community interpret them as a miscarriage of justice.[39]

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[38] Schwartz, note 23 supra, p. 1029.

[39] The most recent, widely known example of such a miscarriage of justice was the acquittal of the officers involved in the flashlight bludgeoning of Arthur McDuffey in Miami.

Another widely publicized case was that of Jose Campos Torres. Torres was arrested for drunkedness, handcuffed and beaten severely

It is a myth that remedies under the law currently exist to prevent abuse of power by law enforcement officers in the United States. It is a myth because:

1. The interrelated roles of police and prosecutors constitute a built-in conflict of interest preventing the impartial initiation of prosecution against law enforcement officers who perpetrate physical and psychological abuse on citizens.
2. The federal criminal statutes require a nearly impossible defense to be presented by the complainant.
3. Investigation procedures carried out by the police department which also hires the accused officer are designed to give maximum protection to the officer and little, if any, aid to the complainant.

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by three Houston police. One of them then pushed Torres, still handcuffed into a bayou, saying, "Let's see if this wetback can swim."

The three officers received no punishment from the state court that tried them. They were then tried in federal court for violating Torres' civil rights and sentenced to one-year. "I thought the federal government was going to take care of everything," said the victim's mother. "It's just a slap in the face."

In stark contrast to the despair of Ms. Torres was the jubilation of a fellow Houston police officer, "That ain't bad at all. They won't be there [in prison] but six months." (These responses of Ms. Torres and the police officer were reported in The Washington Post, March 29, 1978)

One study by Arthur Kobler found that, out of 1500 police-caused deaths, only 3 resulted in a criminal conviction of a police officer for homicide. (Kobler, "Police Homicide in a Democracy," Journal of Social Issues, v. 31, n. 1, 1975, p. 177.) This is a conviction rate of 0.2%. In contrast, between 1965 and 1974, of 1,337 civilians identified in killing law enforcement officers, 827 were convicted of murder or a charge related to murder or committed to a mental hospital; this is a 62% conviction rate. In addition to this remarkable conviction rate, an additional 175 people (13%) were killed on the spot and another 44 either committed suicide or died in custody. Thus 78% of people identified were either killed on the spot, died, or were convicted. (Based on figures found in Table 3.103, "Persons Identified in the Killing of Law Enforcement Officers, by Type of Disposition, U.S., 1965-1974 (Aggregate)," Sourcebook of Criminal Justice Statistics, 1978, p. 464.)

B. Civil Remedies--Suing the Lawbreakers

When victims of police abuse seek relief in court for police misconduct, they find that the burden of proof required to establish a case against the defending police officer is almost insurmountable. The high burden of proof placed upon the complainant, the jury's racial bias, the ignorance and poverty of the victim and the prevailing nationwide clamour for law and order all operate to foreclose the courts as an effective forum for relief.[40] Furthermore, the availability and application of civil damages in federal courts have been severely restricted[41] and similarly, but to a lesser extent, civil damages do not serve a compensatory or deterrent function in the federal or state court context.[42]

As a practical matter, the principal federal statute authorizing a damage suit for deprivation of constitutional rights is 42 U.S.C. §1983.[43] The use of damage action became a virtual necessity after the U.S.

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[40] U.S. Commission on Civil Rights Report, v. 5, p. 25, note 63 (1961). (Hereinafter cited as 1961 Civil Rights Report.) Figures given by Drew Days (note 6 supra) reveal that of 10,000 complaints filed in 1977, 26 officers were convicted; this is a 0.2% conviction rate.

[41] See 1961 Civil Rights Report, supra, p. 25 at note 70-71.

[42] 1961 Civil Rights Report, supra note 25 at 80. The President's Commission on Law Enforcement and Administration of Justice Task Force Report: The Police 199 (1967).

[43] Section 1983 provides: "Every person who under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress." 42 U.S.C. §1983 (1970).

Supreme Court in a series of cases slammed the court doors shut in the faces of victims of police crimes by severely restricting the power of the federal courts to intervene through injunctive actions into patently gross illegal patterns of police crimes.[44]

Newman[45] argues that whenever it appears that the Constitution or laws of the United States have been violated, the United States itself should be permitted to sue to redress the wrong. That proposition has been dealt a very serious setback by the incredible decision of the United States District Court for the Eastern District of Pennsylvania in its decision in United States v. City of Philadelphia.[46] In dismissing

[44] See, for example, Rizzo v. Goode, 423 U.S. 362 (1976). In the Goode case, the plaintiffs contended that certain police officers were biased against Blacks and other minority groups and habitually violated their legal and constitutional rights; that the proclivities of these officers were well known to their superiors in the department; and that the persons in control of the supervision of police conduct, by failing to take appropriate disciplinary action, condoned these illegal and unconstitutional activities as a matter of policy. Plaintiffs in Goode offered a mass of evidence, including expert testimony, to show that the existing complaint procedure was inadequate and that departmental resistance to the creation or implementation of adequate complaint procedures justified the conclusion that it was the policy of the department to condone racially discriminatory actions by the police.

[45] Newman, p. 453.

[46] In this far-reaching lawsuit, the United States, through its Attorney General, attempted to secure broad declaratory and equitable relief against an allegedly pervasive pattern of police abuse in Philadelphia, the effect of which was to deny basic federal constitutional rights to persons of all races, colors and national origins. This abuse was said to consist of such practices as, for example, using deadly force where it is unnecessary, physically abusing arrestees and prisoners, extracting information and concessions by means of physical brutality, stopping persons without probable cause and conducting illegal searches and seizures.

this law suit, the Court held that the Attorney General of the United Stated lacked the constitutional authority to bring such a law suit[47] and further accused the Justice Department of "abuse of power." [48]

Since the efficacy of a civil action depends upon adjudication before an impartial jury, the impact of intrinsic race and class biases affect the ultimate decisions of the fact-finders. A group of researchers reporting on their findings on racial prejudice in jury determinations in Connecticut noted that white plaintiffs won approximately 43% of their cases while Black plaintiffs won only 19% of their cases.[49]

Racism unquestionably impacts the difference in damage awards between successful white and Black plaintiffs. This conclusion is supported by the results of the Connecticut study which revealed that, although the total number of verdicts in favor of plaintiffs in general was small, the award differential was unmistakable; for example, the

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[47] In his decision, Judge Ditter, at page 36 of his opinion in United States v. City of Philadelphia et al., Civil Action No. 79-2937, says the following:

> "While pondering all this, it is important to remember that the Attorney General and his subordinates are not elected officials. They are not subject to the sobering influence of the ballot box, and they never need to worry about the whim or desire of any electorate. Yet they stand before this court today and claim the power to decide what will serve the nation's 'interest' and the people's 'welfare.' I am persuaded that such a power was never intended to lie in the hands of an executive appointee. Rather, I hold that these decisions are best made by Congress alone....
>
> "It is clear to me, therefore, that the authority to bring a lawsuit of this kind should never be vested in the Attorney General. This conclusion is fully in accord with the decisions of the Courts of Appeals for the Fourth and Ninth Circuits in Mattson and Solomon, supra."

[48] See Judge Ditter's opinion supra at p. 39.

[49] See "Project: Suing the Police in Federal Court," Yale Law Journal, v. 88, n. 4, March 1979, note 62 at p. 794.

average award for the three successful whites was over $7600; the average award for the three successful Blacks was $1400.[50]

It is important to examine this pattern of damage awards against the backdrop of an inherent racial bias in the jury selection process in the United States. In many court districts, juries are selected from a pool of names drawn from voter registration lists from that area. Blacks do not register to vote in the same proportions as do whites, and thus fewer are included on the juror lists. Since jurors, when interviewed, explain their inability to reach a verdict as a function of racial attitudes, different lifestyles, backgrounds, and dealings with the police, and because defense attorneys concede they prefer all-white, middle-class juries, it is clear that a jury selection process that regularly includes few Blacks systematically discriminates against members of oppressed minorities, whom we have already seen are disproportionately the victims of police misconduct. Thus entrenchment of racism which characterizes police abuse of power is given additional support through court responses to the victims' attempts to gain relief.

If one of the objectives in civil suits against the police is to compensate individuals for violations of their constitutional rights, then major impediments operate to nullify that objective. It has been argued that a more significant objective, albeit more theoretical than actually obtainable, is to deter police misconduct.[51] However, to

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[50] Ibid.

[51] Takagi argues with some persuasion that "to pay money to the victim or someone else representing him is distributive justice and not social justice. Distributive justice means simply 'what's good for the goose is good for the gander.' Social justice, on the other hand, means that the rights of liberty, equality, and security are not elements to

the extent that the deterrent effect depends chiefly upon holding those responsible for police crimes financially accountable, the facts demonstrate that the realization of this objective is also unattainable. In most jurisdictions, police officers are provided free legal counsel and are indemnified for any settlement or judgement by the municipality or its insurance carrier. Some municipalities are self-insured; others purchase insurance from a carrier for the benefit of their employees. Under these circumstances, the general procedure followed once a complaint is filed against an officer requires that the insurance company be notified, and it retains an attorney to represent the police officer. If the municipality is self-insured, its corporation counsel handles the police officer's defense.

In summary, when looking at civil remedies available to victims of police abuse, it is again clear that, while the remedies may exist in theory, in actuality they are myths. This is true for three reasons:

(1) Victims must overcome substantial impediments to present an adequate defense;

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be exchanged for money or for property rights; nor should they be expressed in relative terms, that is, greater or less than property rights. One person's life and liberty is the same as the next person's. But in a society that equates the right of private property with human rights, they become inevitably reduced to standards and consequences that value some lives less than others. The system of coercion and punishment is intimately connected with the unequal distribution of wealth, and provides the legitimation under the perverted notion that 'ours is a government of laws' even to kill in order to maintain social priorities based upon property rights." Note 12 supra, p. 37.

(2) Financial awards do not adequately compensate victims for the violations of their constitutional rights;

(3) Both individual police officers and police departments are insulated from the financial burden consequent to a civil law suit.

The inescapable fact facing the victim of police crimes, therefore, is that efforts to sue the lawbreaker in court have almost no impact on controlling or alleviating patterns and practices of police abuse.

Obviously, minorities and the poor who become victims of police crimes in the United States realize that the biased legal process is manipulated to subvert national standards of decency and democracy and to encourage an increasing national tolerance of domestic indifference to brutality and injustice which places the wrong doer beyond the reach of the law.

APPENDIX A

TABLE A

CIVILIAN DEATHS BY POLICE

YEAR	TOTAL CIVILIAN DEATHS BY POLICE	WHITE	BLACK
1970	333	156	177
1971	412	215	197
1972	296	132	164
1973	372	185	187
1974	370	183	187
1975	330	177	153
1976	286	146	140
TOTAL	2399	1194	1205
AVERAGE	343	171	172

Source: Vital Statistics of U.S. Mortality, Tables 1-23, Volume III, Part A.

POLICE DEATHS BY CIVILIANS

YEAR	TOTAL POLICE DEATHS BY CIVILIANS
1970	100
1971	129
1972	116
1973	134
1974	132
1975	129
1976	111

TOTAL: 851

AVERAGE: 122

Source: Statistical Abstract of U.S. Bureau of Census, 99th & 100th editions.

APPENDIX B

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TABLE B

TOTAL ARRESTS IN THE UNITED STATES

YEAR	TOTAL ARRESTS	WHITES*	BLACKS*
1970	6,257,000	4,373,000 (69.9%)	1,688,000 (27.0%)
1971	6,626,000	4,624,000 (69.8%)	1,791,000 (27.0%)
1972	6,706,950	4,664,220 (69.5%)	1,847,566 (27.5%)
1973	6,248,286	4,458,567 (71.4%)	1,636,237 (26.2%)
1974	5,853,060	4,112,443 (70.3%)	1,561,781 (26.7%)
1975	7,671,000	5,539,000 (72.2%)	1,935,000 (25.2%)
1976	7,383,960	5,336,889 (72.3%)	1,870,206 (25.3%)

*Hispanics are included in the figures for whites.

*The percentages in the last two columns will not add to produce a total of 100% because Native Americans, Japanese, Chinese, and other minorities are not included in either of these two columns.

Sources: *Sourcebook of Criminal Justice Statistics, Statistic Abstract of the U.S. -- 99th & 100th Eds.*

APPENDIX C

BRUTALITY BY LAW ENFORCEMENT AGENCIES: Case Summaries (by State)

CALIFORNIA

	Case Type	Legal Status
1) Name: BENAVIDEZ, Barlow Date: 6/11/76 Location: Oakland, CA	Benavidez' car stopped in relation to stolen car investigation by officer Michael Cogely. In "spread-eagle", Benavidez searched by officer with cocked shotgun in one hand to his head. Gun fired, Benavidez killed. Eyewitness arrested for same car robbery, charges later dropped. Officer violated all of Oakland PD's procedures for such a search, and there is evidence of a police dept. cover-up.	Civil suit by Benavidez family in Alameda County Superior Court for wrongful death, Federal cause of action ($3 Million). Current efforts to get Federal indictment. Since June'77 Justice Dept. and FBI investigations. Drew Days in Washington has committed the Justice Dept. to expedite proceedings. Benavidez' attorney is Ed Roybal of Centro Legal de la Raza.
2) Name: DOMINGUEZ, David Date: 2/28/77 Location: Los Angeles, CA	Dominguez was known gang member. Lured into the home of retired police officer (LAPD) Billy Joe McIlvain,who had had many run-ins with local gang members while with LAPD. McIlvain held Dominguez hostage, and attempted to make it seem as if Dominguez had kidnapped him. He shot (9 times) and killed Dominguez, reporting to investigators that he had pulled out a hidden gun. Reports show that Dominguez was shot with two (2) different weapons.	McIlvain found guilty of 1st degree murder and kidnapping. Sentenced to life in prison by L.A. Superior Court Judge Wm. B. Keene. McIlvain's attorney is Charles Gangloff. No information on Federal involvement.
3) Names: HERNANDEZ, Jesse REYES, Adolfo Date: 3/20/77 Location: San Fernando, CA	Victims arrested for some street disturbance. City police officer Eric Kahmann beat Hernandez and Reyes with baton and fists, with Lt. Wm. Trachsel (acting police chief) looking on. Beatings occured at the city jail.	Charges against Hernandez later dropped for lack of evidence. Reyes guilty of misdemeanor charge of carrying a loaded firearm. L.A. Grand Jury indicted officers on charges of assault in the beatings of the 2 jailed prisoners. Each officer faces two felony counts. Trachsel fired after a one month police investigation. Investigation of Kahmann still pending. No Federal inquiry.

4) Name: RAMIREZ, Crescencio
Date: 10/29/77
Location: Wasco, CA

Verbal exchange resulted in the arrest of five youths, who were beaten and handcuffed tightly causing wrist bruises. Mr. Ramirez, a friend of one of the youth's father, attempted to investigate the processing of the youths, which was carried out in secrecy. A couple of days later, officers Emerson and Snead arrived at Ramirez' home without warrants, entered the property, and began to beat Ramirez with clubs when Mrs. Ramirez attempted to hold her husband. Officers began to beat Mrs. Ramirez, and tossed her children into some rosebushes when they also attempted to aid their parents.

Miguel Garcia is the attorney for Ramirez and the youths. Ramirez was never charged with anything, and it was never specified why the officers had gone to his house. Youths, and the father of one of them, were charged with the California law of lynching, but all charges have been dismissed. Bakersfield D.A. investigated and concluded that the only negative behavior he found on the part of the youths was foul language. Garcia has filed a petition with the Supreme Court (state) dealing specifically with violations by parole officials with respect to one of the youths. He hopes to bring attention to the abuse generally faced in Wasco.

5) Name: RAMIREZ, Edward
Date: 4/16/77
Location: Los Angeles, CA

Undercover officers in Downtown L.A. dressed like hoboes, beating a suspect as Ramirez approached. Unaware that they were officers, Ramirez went to the aid of the suspect. Without identifying himself, Officer Lony Hammond fired, killing Ramirez.

Informational source is the Coalition Against Police Abuse in L.A. Family has no money to file suit, but have filed a formal complaint with the LAPD. LAPD reports incident as Justifiable Homicide. No Federal inquiry.

TEXAS

6) Name: BELTRAN, Noe
Date: 10/21/77
Location: Brownsville, TX

Beltran was eyewitness to the shooting of Ventura Flores (See FLORES, Ventura). Officers Hess and Avitia handcuffed him and threw him to the ground. When he heard the shot that wounded Flores, he raised his head to get up, and Officer Hess kicked him in the face, causing abrasions.

Beltran taken to the Police Station where he gave his statement. He requested that the abuse by Officer Hess be included in the statement. Officer taking the statement refused to include this, stating that the matter would be taken care of in court. Beltran was immediately released. Ruben Bonilla of LULAC is actively involved with this case. FBI investigating.

7) Name: FLORES, Ventura Date: 10/21/77 Location: Brownsville, TX	Warrant was issued for Flores' arrest by Justice of the Peace, Ed Sarabia, for felony charge of retaliation. Detectives Robert Avitia and Chris Hess arrived at the scene at at which Flores and others were talking. There was an altercation, and Hess shot and wounded Flores in the chest. Flores, drunk at the time, was reported to have attacked Avitia. While in ICU, Flores remained handcuffed. Reports conflict as to whether police used proper identifying procedures upon arrival at the scene.	Police investigation in progress. Grand Jury indicted Flores for aggravated assault on a police officer (misdemeanor). Original felony charge received no indictment. Grand Jury investigating police abuse, but the affidavits of eight eyewitnesses were all lost, never received by the Grand Jury. Evidence of a police cover-up. FBI investigating as of December for possible civil rights violation, at the request of U.S. Attorney Canales. Attorney for Flores is Jerry Davidson.
8) Name: GALAVIZ, Juan Date: December 1977 Location: Big Spring, TX	Police report that Galaviz abducted a women, robbed her, then led police on a chase. When trapped between two police cars, Galaviz reached for his coat pocket, and Sgt. Leroy Spires fired and killed Galaviz. His pocket contained a pocket knife.	District Attorney Rick Hamby investigating the shooting. Texas Rangers also investigating, and will present results to Howard County Grand Jury. Report by Journalist Carlos Morton, states that Galaviz had been harrassed by police previously, and "were out to get him." Witnesses who claim police abuse, not testifying because of fear of reprisal. No Federal involvement.
9) Name: GARZA, Pablo Date: 3/23/76 Location: Bexar County, TX	Garza arrested for drunken driving by San Antonio Police. Garza charges that three Bexar County Jail guards, Charles Harris, Robert Collins, and James Lovings threw him into a small cell and kicked him repeatedly, beating him severely. He was hospitalized only after his release from jail. Defense states that upon his arrest, Garza took a swing at the arresting officer, who struck Garza repeatedly to subdue him. Once in jail, guards claim that Garza was abusing other inmates.	Misdemeanor assault indictment by Bexar County Grand Jury. Guards fired. Judge, County Court-at-Law, Raymond Wietzel, finds guards not-guilty of any wrongdoing. Guards reinstated, with back pay, by the Civil Service Commission. Garza began proceedings (served notice) for filing of civil suit, but no further action taken. Reportedly, Garza is an alcoholic, and epileptic, perhaps being a problem in securing support for his case. No Federal inquiry into the matter.

10) Name: MORALES, Ricardo
Date: 9/14/75
Location: Castroville, TX

Castroville Marshall, Frank Hayes, picked up Morales at his home on an arrest warrant regarding an investigation into a series of burglaries. Another Marshall was with Hayes, but left after Morales picked up. Hayes drove out to the country, and shot and killed Morales on a deserted road. Hayes' wife, Dorothy Hayes, with the collaboration of a friend, Alice Baldwin, took the body and buried it some distance away from the scene.

Hayes found guilty of aggravated assault, sentenced to 10 years. His wife given one year sentence, probated, for burying the dead body. Tremendous community pressure, including that of Governor Dolph Briscoe, prompts Federal Grand Jury probe for violation of civil rights. Case presented to Grand Jury by Assn't U.S. Attorney John M. Pinckney and two Civil Rights Division attorneys from Washington, Dan Rinzel and Karen Moore. Attorney for Hayes is Marvin Miller. There was a change of venue to San Angelo for the civil rights trial. Hayes convicted on 9/77 for civil rights violation for the murder of Morales and sentenced to life by Chief U.S. District Judge Adrian Spears. He is presently not serving sentence due to psychological tests to determine Hayes' ability to withstand the punishment (90 day testing period ordered by Judge). Mrs. Hayes and Alice Baldwin were also convicted as accessories after the fact. No information on their sentencing.

11) Name: PRIETO, Eduardo
Date: 4/3/77
Location: El Paso, TX

Officers received a call for disorderly conduct at a bar. Complaint against Prieto, who officers escorted out of the bar. Officers claim that Prieto offered confrontation, so Francisco J. Gonzalez kneed him in the groin, and battered him repeatedly with his flashlight in order to to get the already seriously injured Prieto into the car. Prieto hospitalized for ruptured testicle, only after he was taken to police headquarters and refused medical care until his release on bail hours later.

Upon leaving the hospital, Prieto filed complaint with Police Dept. Officer Gonzalez dismissed from the force. El Paso County Grand Jury investigate and No-Bill Gonzalez on aggravated assault complaint. Attorney for Prieto is L. Taylor Zimmerman who is presently still considering filing a complaint with the FBI, or a civil suit.

12) Name: RODRIGUEZ, Santos
Date: 1973
Location: Dallas, TX

Police officer Darrell Cain stopped and questioned Rodriguez about a service station robbery. In the back seat of his car, "Russian roulette" style, Cain put a loaded gun to his head, pulled the trigger and killed Rodriguez.

Cain's trial had a change of venue to Austin. Convicted, got 5 year sentence for criminally negligent homicide. He appealed to the Court of Criminal Appeals in Austin. Judge Ed Gossett confirmed the lower court decision on 3/77. A community committe has formed to pressure for a Federal Grand Jury investigation. Dan Rentzel, from the Civil Rights division at the Justice Dept. is also investigating.

13) Name: SANTOME, Tiburcio
Date: 11/6/77
Location: Glasscock County, TX

Santome picked up for drunk and disorderly, reportedly pulled out a knife and went after Sheriff Royce Pruit who was driving the car. Retired West Texas deputy sheriff, G.B. Therwanger, a passenger in the back seat, shot and killed Santome. Santome was not handcuffed, and police report that a patdown search was done before Santome entered the car, although Mrs. Santome stated that there was no patdown search. Santome was a Mexican national from Juarez. Four shots were fired.

Texas Rangers investigating the shooting. Don Richard, Assistant D.A in Big Spring, Howard County, is presenting the case to the Grand Jury, but he is not recommending any charge against Therwanger. Special Assistant to the U.S. Attorney General, Ed Ibar is investigating possible civil rights violation

14) Name: TORRES, J. Campos
Date: 5/5/77
Location: Houston, TX

Officers received a complaint from cafe owner about drunken Torres. Police arrest for disturbance and take Torres to the jail. En route, police report that Torres used abusive language and began to kick windows on car, so took him to parking lot, and beat him severely, kicking, hitting with flashlight, while Torres handcuffed. Six officers were involved. Upon arrival at the jail, duty sgt. ordered Torres to hospital. En route to hospital, officers took Torres to bayou, and Officer Terry Denson pushed him in. Body found drowned in bayou several days later.

Attorney for Torres is Percy Foreman. Officers given one year probated sentence for criminally negligent homicide Community outcry brings Federal Grand Jury indictment for violation of Torres civil rights (10/77). Federal Judge of U.S. District Court is Ross N. Sterling Jury convicted Officers Denson, Stephen Orlando, and Joseph Janish (2/8/78) for violation of civil rights leading to the death (felony), and for beating and intimidating, a misdemeanor. Sentencin will be 3/28. Officer Louis Kinney received severance for his role as state witness, and will be tried at a later date. Jurors rejected charges that Denson pushed Torres into the bayou, and that there was a conspiracy to cover up. Federal prosecutors were Brian McDonald and Mary Sinderson.

15) Name: VASQUEZ, Danny Date: 1/22/78 Location: Moon City, TX	Deputy Sheriff called to Moon City reported fight in progress. Officer began to frisk a friend, and Vasquez attempted to explain that this individual had not been involved in the fight. The officer, Sergio Guzman, pointed his shotgun at Vasquez. Vasquez attempted to push the barrel away from himself. Officer stepped back and fired, killing Vasquez. There is evidence of negligent delay in taking Vasquez to the hospital, since he did not die immediately. Vasquez had not been involved in the fighting.	El Paso Sheriff, Mike Sullivan, suspended Guzman with pay, pending a department investigation. Grand Jury will investigat Chicanos Unidos spokesman, Ramon Aroyos, demands murder charge against the officer No Federal involvement at this point.
16) Name: ZARAGOZA, Albert Date: 8/15/77 Location: San Antonio, TX	Police officer Eloy Gonzalez was shot and killed. When officer George Castenada arrived at the scene, Zaragoza was there holding a police revolver. He was arrested and handcuffed. Zaragoza had been trying to capture a suspect in the killing. This other suspect was also arrested by Sgt. Richard E. Dominguez, and both were ordered to strip naked. A female witness was brought to identify nude suspects, and both were taken to headquearters still nude. Zaragoza received beating.	Zaragoza eventually released and credited with assisting in the capture. Juan Garza, illegal alien, indicted for capital murder and is awaiting trial. There was a police investigation. Castenada was suspended for 15 days without pay, and Dominguez was given a 30 day suspension. No suit has been filed.
17) Name: ZEPEDA, Juan Date: 2/20/77 Location: Bexar County, TX	Zepeda arrested at a disturbance at a bar. Arresting officers, Michael J. Henderson, and Clifford Cedotal beat him with blackjacks, reportedly to subdue him. Once at the jail, four guards carried Zepeda into a cell, threw him in, and kicked and beat him. Zepeda was later found dead in his cell.	Bexar County Medical Examiner Dr. Ruben Santos ruled homicide, that death was cause by a blunt force to the abdomen. Police and prison investigation. FBI investigation, forward reportsto the civil rights division of the Justice Dept. D.A. investigation (Bill White) after Chief Deputy Sheriff, Rudy Garza, finished his investigation. Probe also continues by Justice Dept.

18) Name: ZUNIGA, Juan Veloz Date: 5/19/77 Location: Hudspeth County, TX	Zuniga detained at Sierra Blanca four days before his death. Police arrested him for drunken driving. Sheriff Claymon McCutcheon reported that Zuniga went "berserk" in his cell, actually striking another inmate in the Hudspeth County Jail. Sheriff McCutcheon struck Zuniga repeatedly over the head with a sawed-off pool cue. Witnesses report that beating was unjustified. Zuniga died as a result of the beating.	Hudspeth County Grand Jury investigation. Texas department of public safety investigation. No action taken or recommended by Grand Jury against McCutcheon. FBI investigation indicates possible violation of civil rights. Report forwarded to Washington by Jamie Boyd, U.S. Attorney for Western District of Texas. Entire Hudspeth County investigation a sham. State Representative Paul Moreno and community pressuring Justice Dept. for action.

NEW MEXICO

19) Name: BARRERAS, Chris Date; 11/19/77 Location: Albuquerque, NM	Barreras' wife called police to report a fight she was having with her husband. Upon their arrival Barreras was driving out, and high speed car chase ensued. Car broke down, and Barreras ran on foot until police surrounded him and began to strike on the head. Barreras was handcuffed while he was being beaten.	Barreras booked on felony assault on police officer, resisting arrest, drunk driving, and assorted other charges. There has been an internal affairs investigation by Albuquerque police. It has been completed and is now in the hands of the Police Chief for his decisio regarding any.wrongdoing by the officers. Barreras has not yet come to trial in the Bernalillo County District Court. D.A. is Ira Robinson.
20) Name: CORRIZ, Larry Date; 9/76 Location: Rio Arriba County, NM	Corriz and friends arrested on heroin charge. Corriz told to get into his car and leave the scene. As he was driving away, Deputies Steve Martinez and Canuto Martinez opened fire on Corriz, one of the bullets striking Corriz in the back. Two deputies made no attempt to help Corriz after they had shot him.	Corriz charged with trying to escape, but charges later dropped. Corriz filed civil suit for $350,000. in damages. Suit assigned to District Judge, Edwin Mechem. Suit pending.

21)	Name: DAVIS, Jose L. HEMBREE, Daniel P Date: 8/20/77 Location: Albuquerque, NM	Officers respond to call about a loud party. An altercation ensued involving both Davis, and Hembree. Officer James Babich beat both with flashlight	Davis and Hembree have misdemeanor charges pending against them in magistrate court, for assault on a police officer, and resisting arrest. No charge filed against the police officer.
22)	Name: DEVARGAS, Antonio Date: 9/76 Location: Rio Arriba, NM	Devargas, Raza Unida Party leader, challenged with a gun at a bar by off-duty officer Anthony Griego. Devargas knocked Griego down and punched him. Devargas sent to the state penitentiary for safe-keeping. One of the prison guards told Devargas to shave moustache and sideburns. Since Devargas was a County prisoner, state guards had no jurisdiction over him, so he refused. Eight of the guards then knocked him down and beat him.	Devargas charged with aggravated battery against prison staff, but Santa Fe County Grand Jury dismissed those charges in June of '77. Attorney for Devargas is Richard Rosenstock, who has filed a civil suit against the state penitentiary. Suit is now pending. According to Rosenstock, the arrest and jail incident are very political since Devargas very active in trying to oust political boss, Sheriff Emilio Naranjo, and was candidate for Rio Arriba County Commissioner.
23)	Names: GAMBOA, Jose GAMBOA, Virginia GAMBOA, Simon TRIGUEROS, Raymond TRIGUEROS, Romona Date: 3/1/74 Location: Columbus, NM	These individuals crossing the border, ordered to halt by customs and border patrol agents. The five were then beaten by these agents.	These individuals have filed a $10,000,000. suit for damages. Suit is pending. The five were charged with assaulting Federal officers, taken before the U.S. Magistrate in Deming. Then taken to Albuquerque for trial, and charges were dismissed. Part of the suit by the five involves the harrassment and inconvenience caused by these unfounded Federal charges.

24) Name: MONTOYA, Alven Date: 8/75 Location: Albuquerque, NM	Montoya and his son were working on their pick-up truck. Officers investigating an auto burglary. Montoya charged that police officer knocked down his son and kicked a tire into the boy's stomach. A skirmish evolved and Dr. Keith Harvie testified that his examination showed that Montoya had three broken ribs and a bruised lung the next day as result of beating.	Montoya filed a $200,000 civil suit charging city police officers James Rogers, Cliff Jenkins, and John A. Sanchez with the beating. The Federal Jury ruled in a unanimous verdict that officers were not liable. Attorney for the officers was Mark Meiering, and for Montoya, Manny Aragon, who has filed an appeal.
25) Name: RAMIREZ, Andrew Date: 11/10/77 Location: Albuquerque, NM	Ramirez' mother called police to have them remove her son from the house since he was drunk and being abusive. In the house, Police began to beat Ramirez repeatedly over the head with flashlight (Officer James Babich). Ramirez was dragged out of the house, administered no first aid by the officers, and was dead on arrival at the hospital	No suspension of Officer Babich. Internal Affairs Division conducting an investigation. A preliminary autopsy by the Medical Examiner shows that Ramirez died from brain hemorrhage, "possibly" from blow to the head. Results of investigation pending. Babich has definite history of such behavior (SEE DAVIS, Jose, above).
COLORADO		
26) Name: ESPINOZA, Arthur HINOJOS, James Date: 7/30/77 Location: Denver, CO	Officers arrive at park after reports of shootings. Witness state that plain clothes, vice officers John O'Dell, Gary Graham, and David Neil, with no identification, jumped out of their cars, shooting at Espinoza and Hinojos who were lying on the grass. Both were killed. Officers say that Espinoza moved as if drawing for a gun. Both victims were well over the legal level of intoxication.	Community uproar over the killings, calling for Justice Dept. investigation. Grand Jury has indicted David Neil, but cleared both O'Dell and Graham. Neil has not been suspended from the department. Investigating D.A., Dale Tooley, has had a poor record concerning Chicano-Anglo matters. Attorney for victim's families, Kenneth Padilla, has called for a special prosecutor. Children of Espinoza have filed a civil rights damages suit of $4 million. Attorney handling this suit is Walter Gerash. Similar suit expected for Hinojos. Community convinced of cover-up. Detectives who did shooting, left the scene immediately.

27)	Name: FERNANDEZ, Robert Date: 8/26/77 Location: Pueblo, CO	Fernandez' wife called police to enforce restraining order she had obtained to keep her husband away when he was abusing her. Officers Henry Chapman and Timothy Pepin arrived and placed Fernandez under arrest. Wife states that Fernandez indicated that he was going to put down his beer can and in the process accidentally touched the sleeve of one of the officers. At this point officers began to beat with clubs and did not stop until Fernandez was dead.	D.A. Joe Losavio filed criminal charges against patrolmen for criminally negligent homicide, based on coroner's inquest. Trial set for March 1978. Community outcry at the lesser charge, a misdemeanor. Widow has filed a $16.6 million civil suit for wrongful death against the City of Pueblo, the D.A., the Chief of Police, and the officers involved. The D.A. was at the scene of the killing shortly after, and he is accused of collaborating with police to cover-up the evidence. There is presently a motion to recall the D.A. Attorneys for the widow are Edwin K. McMartin and Michael Kelly. Officers Chapman and Pepin transfered to desk jobs, generally considered a promotion. No federal involvement.
28)	Name: LUCERO, Dennis Date: 5/5/76 Location: Denver, CO	Lucero was walking home, and had an exchange of words with James Connely. Connely, a private citizen, went into his house, brought out his shotgun, shot and killed Lucero. State law enforcement whitewash ensued (see opposite).	Judge ignores community pressure to change original manslaughter charge. Police Dept. melted the shotgun used to kill Lucero, so charges against Comely were dropped, since shotgun was the main piece of evidence.
29)	Names: MONTOYA, James MONTOYA, Roger MONTOYA, Robert Date: 4/10/76 Location: Albuquerque, NM (NOTE: This case out of geographical sequence)	Reported fight at LULAC Club 2823. Officer claims that Robert Montoya, the father of James and Roger, attacked him. Chief of Detectives for Bernalillo County Sheriff's office, Orlando Padilla, shot and killed Robert and James, and shot and wounded Roger.	On November 13, 1976, Padilla acquitted for the killing of Robert, but convicted by the jury of voluntary manslaughter in the shooting death of James, and for aggravated battery in the wounding of Roger. District Judge Joseph Baca sentenced Padilla to two concurrent prison terms of 2-10 years. Padilla out on $25,000 property bond pending appeal. Padilla's attorney is Leon Taylor. The Chief Deputy D.A. is Robert Martin.

30) Name: SANCHEZ, Joe Roy
Date: 6/2/77
Location: San Luis, CO

Sanchez, who had been drinking, was in a local store waving around a .22 he had in his possession. Deputy Dave Marcus arrived at the scene, and there was a verbal exchange between the deputy and Sanchez. The officer purchased a pack of cigarettes. The girl at the counter testified that the deputy had his gun in hand while he was paying for the cigarettes. Marcus struck Sanchez in the head with the gun. Sanchez fell back, and his gun discharged. Marcus fired six shots, striking and killing Sanchez.

Coroner's inquest ruled that there was no cause for charges. Community felt that the testimony allowed was biased in favor of the deputy since court presented personal backround of Sanchez in detail, but none at all on Deputy Marcus. The Sanchez family will file a civil suit in the state court for the sum of $1 million, naming the county commissioner, the Sheriff, and Marcus. Petition for suit has already been filed. Deputy Marcus was reinstated into the department after having been on temporary leave with pay.

THESE CASES WERE COMPILED BY THE MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND, 28 GEARY ST., SAN FRANCISCO, CA. 94108
For further information please call (415) 981-5800 or write.

BRUTALITY BY LAW ENFORCEMENT AGENCIES: Case Summaries, PART II (in order by state)

CALIFORNIA

	Case Type	Legal Status
31) Name: BLANDO, James Date: 2/20/76 Location: Los Angeles, CA	On the night of the incident, Blando was fearful of gang reprisals against him, related to a previous incident. He called for police protection. The unit did not arrive until one hour later at the S. Hoover St. location. During this time Blando purchased a knife for his personal protection. Officers Norman Rouillier and James Wright immediately began to display aggressive behavior against Blando, who ran, eventually falling exhausted. Witnesses say that at no time did Blando threaten officers with the knife. Officer Rouillier fired one shot, wounding Blando, and Wright then proceeded to fire six shots, re-load, and fire six more shots into the body of Blando, killing him. Officer report states that Blando was threatening a young boy with his knife when they arrived. and turned to stab Rouillier. Immediately after the shooting, witnesses were physically abused by the officers.	Blando's family filed a formal complaint with the LAPD. Police investigation concluded that killing was justifiable homicide. Blando's defense committee called for a D.A.'s investigation. Coroner's inquest denied. Blando's family has filed a wrongful death suit, which is pending. D.A. investigation is pending. No knowledge of Federal involvement.
32) Name: CORTEZ, Ruben Date: 1/19/77 Location: Los Angeles, CA	Cortez was taken hostage by a gunman at his place of employment, and forced to drive. Officers gave chase with an exchange of gunfire. Officers were aware that there was a hostage in the car, and the units involved had complete radio communication with other units. Car lost control and crashed. Numerous witnesses stated that neither Cortez nor the gunman moved after the crash. Coroner's inquest indicates that Cortez was unconscious immediately after the crash. One officer then approached the crashed car and fired 4-5 rounds into the car, killing Cortez, who was unarmed. Coroner's report indicates that Officer Small's unit was that which gave pursuit. Officer R.V Montigo was also involved.	Police and D.A. investigation still in progress. Coroner's inquest concluded that the officers were guilty of homicide. FBI has made inquiries.

33) Name: GARCIA, Tony
AMADOR, Bill
Date: 4/4/78
Location: San Bernardino, CA

The young boys were driving in the area of 7th and Roberts, when they were stopped by two marked police units for allegedly driving without lights. Angel Leon, an off-duty officer in one of the units, approached Amador and struck him in the face with his fist and challenged him to a physical confrontation, without any provocation. He then hit Garcia in the face area with his flashlight, and on a backstroke, struck another youth also present, breaking his nose. He struck a fourth youth in an attempt to provoke an altercation. Leon has had a well-known history of brutality against Chicano youth. He had previously been involved in gang investigations, which he conducted with much physical abuse. Leon was promoted to Homicide Division, which the Latino community has interpreted as encouragement of such activity. Two weeks previously, Leon's son had been killed, and he has been utilizing this to embark upon a personal shakedown of known gang members. Four on-duty officers stood by and watched throughout the incident.

The youth's injuries were photographed, and they gave full statements at the police station. The Police Dept. is investigating. A formal complaint by the victim has not yet been filed. No charges were made against the youths. Booker Neil from the Community Relations Service of the Justice Dept., is currently trying to mediate between the police and the community. He was called onto the scene of the tension by MALDEF. There has been no disciplinary action against Officer Leon.

34) Name: MONTES, Armando
Date: 5/5/77
Location: Los Angeles, CA

At 11th and Main Streets, Officer Frank Long, an off-duty, Central Division desk officer, claims that he observed a robbery in progress while driving his private vehicle. Long pursued the alleged robbers on foot, and as a witness has stated, he grabbed Montes by the back of his shirt, and spun him around. Montes then pushed the officer in the chest, and turned to run. Long drew his gun and shot point blank into Montes' back killing him. Research by the Coalition Against Police Abuse (CAPA) has shown that the police reports do not indicate that there was ever a robbery in progress as initially stated by Long. The question nevertheless remains that if Long did observe a robbery, why did he not call for help, which is police procedure? Statements by the witness clearly indicate that Montes' apprehension did not require such an excessive use of force, especially since no warning was given.

Formal complaint against the LAPD filed by Montes' family. Police have ruled the killing to be justifiable. A D.A.'s investigation is reportedly pending. No knowledge of Federal involvement.

35) Name: RIVERA, Luis
Date: 10/12/76
Location: National City, CA

City police officer, Craig Short, responded to a report of purse-snatching at a local church. One and one-fourth miles away from the church, Short and his partner encountered Rivera, who began to run when he saw Short approaching. Short drew his .357 Magnum and shot and killed Rivera in the back. The community is concerned at the fact that Rivera was walking toward the church at the time he saw Short; and that Short had threatened Rivera previously. The stolen purse was not found in Rivera's possession.

Grand Jury charged Short with second degree murder, but Judge Hoffman himself dropped the proceedings. There was a community uproar at the decision, and at the evidence of a cover-up by the police dept., e.g., Officer Short was sent on vacation immediately after the shooting, and police refused to identify the officer until the Committee on Chicano Rights pressed for such. The family has filed a wrongful death civil suit, which is pending. Some federal inquiry has been reported, but no official investigation is in progress.

36) Name: TERRONES, Alberto
Date: 4/19/74
Location: Union City, CA

Terrones allegedly held up a store for some canned hams, at knife point. He then fled the scene on bicycle, at which time officer began to pursue. Terrones dismounted and ran into a trailer park. Officer John Miner, in pursuit, claimed that Terrones attacked him with a knife, and that he was forced to shoot him dead. There was serious dispute over whether Miner had used proper procedures in subduing his alleged attacker. There is strong community sentiment that events which occurred four days previously were very much linked to the case. At that time, an Anglo woman claimed that she was burglarized, and that one of her children, Gina Angelo, was stabbed to death. She said that the killer was a Latino. There is evidence that Miner linked Terrones with that slayer, and he was in fact, identified as such after his death. When the woman later admitted that it was she who had killed her own daughter, and that there had been no burglary, police denied that Terrones had ever been implicated. Community members feel that it was the anti-Mexican hysteria, whipped up the the death of Gina Angelo, which led Miner to overreact in his encounter with Terrones. Miner has had a history of abuse in the Latino community.

After Terrones' death, the Latino community was in an uproar. The new Chief of Police, William Cann, met with the community in a conciliatory, fact-finding move. He was shot and killed by a sniper. Community members felt that his death was part of a cover-up by the city, since Cann was sympathetic to the needs of the Latinos in Union City. There was a Police Dept., D.A., and Coroner's investigation. All exonerated Miner. Grand Jury ruled that Miner was not indictable. He was assigned to a desk job by the department. A representative from the Civil Rights Division of the Justice Dept. reportedly visited twice but no official investigation was reported.

37) Name: TREVINO, Daniel Date: 1/22/76 Location: San Jose, CA	Police responded to disturbing the peace complaint by friends of Trevino and Maria Duarte (Trevino's girlfriend) who were involved in an altercation. When the officers arrived, Trevino and Duarte were reportedly sitting calmly in Trevino's car. Upon arrival, officers ordered both to get out of the car. As Maria opened her passenger door to exit, shooting started. Both officers fired, killing Trevino. Although no weapons were found in the car, police allege that Trevino made motions as if to fire at them. Maria Duarte testified that Trevino was semi-conscious when the police arrived, as he had been drinking. Witnesses report that Trevino did not die immediately, but was left unattended on the street.	The Santa Clara County Grand Jury ruled that they had insufficient evidence to indict the officers involved, Lt. Don Edwards and Craig Smith. D.A. Louis P. Bergna presented evidence that put Trevino on trial instead of the police officers, according to Rebecca Trevino's attorney Everette Rowe. There is evidence of a cover-up, e.g., Rebecca Trevino hired a private pathologist, who could not determine Trevino's cause of death due to the fact that parts of his body were not found in the coroner's office, and no one in that officer knew of their whereabouts. Attorney Rowe has filed a $2 million lawsuit on behalf of Mrs. Trevino, which is pending at this time. Community pressure arose for a Federal investigation. The U.S. Justice Dept. ordered the FBI to inquire in April '76, but found no reason to carry out a full investigation. Earlier, in February '76, Phil Montez, director of the regional U.S. Commission on Civil Rights stated that he could be of no help in investigating Trevino's death, but also promised to investigate some of the problems between the Chicano community and the local government. This investigation was never begun.
TEXAS		
38) Name: ARGUELLO, Oscar P. Date: 11/24/76 Location: San Antonio, TX	Off-duty patrolman (wearing uniform), Lorenzo Sanchez, ha been working security at a skate center. According to his report, he saw four men arguing in the parking lot, and he told them to leave. A verbal exchange resulted between Arguello and Sanchez. Officer threatened to arrest Arguello for disorderly conduct. Officer claims that Arguello then started his car and grabbed the officer, pulling his body into the car, and began to drive away. According to the officer, Arguello then allegedly unstrapped the safety strap on Sanchez' service revolver. Sanchez grabbed the revolver and brought it into the car, since his lower body was entirely out of it. Arguello slowed the car, and with the officer running alongside, they began to wrestle for control of the gun. While the officer tried to turn off the ignition, he shot and killed Arguello. According to Ruben Sandoval, a Texas attorney, witnesses have refuted this improbable story, indicating a cover-up of an unwarranted police killing.	Police investigation concluded that the officer was guilty of no wrongdoing, and Sanchez was not suspended. The police report was forwarded to the D.A.'s office as well as for Bexar County Grand Jury, which is standard police procedure. That investigation is pending. No knowledge of Federal involvement.

39) Name: CAMPOS, Fernando Date: 2/29/76 Location: El Paso, TX	A surveillance team of City Police Officers were involved in a stake-out at a local Pizza Hut, the site of a series of previous burglaries. Francisco Sotelo entered the back of the Pizza Hut, armed, in an attempt to commit robbery. He was shot by undercover officer Al Jones. Campos and Robert Dominguez, who were patronizing the Pizza Hut, were frightened at the gunfire since at no time was there identification by the officers. They fled, fearing that the shots were fired by an armed robber. Officer Ernesto Avalos, waiting outside, shot and killed Campos as he ran. There is serious dispute whether the officer used proper warning before firing.	Grand Jury refused to indict officer involved. He was no-billed. Attorneys for the Campos family, Joseph Sib Abraham and Luis Islas, have filed a civil rights action in state court against the city of El Paso and the El Paso Police Dept., as well as Pizza Hut, for wrongful death. The action is directed towards the duty both the city and the establishment in question, with respect to the customer's safety. No federal involvement has been reported.
40) Name: DURAN, Carlos Date: 3/18/77; 8/17/77 Location: El Paso, TX	During massive drug sweeps in the latino sector of El Paso, Duran was arrested on various drug charges. His complaint states that he was then beaten in the streets. He was taken to the City-County Building, into a room with officers Cruz Jacquez and Guillermo Acosta. There, he was forced to strip naked, and while stripping Duran was beaten. Once stripped, he was beaten for another 10-15 minutes. Three other officers looked on while insulting and laughing at Duran.	Duran filed a complaint with the Police Dept 's internal affairs office. The officers involved were suspended for 10 days with no pay. The FBI did make some inquiry, but ruled that there was no substantiation for civil rights charges against the officers.
	In a separate incident, 8/17/77, Duran was beaten by Patrolman Guillermo Acosta, who reportedly struck Duran repeatedly with his fist while he was handcuffed and on ground. Duran was one of many protesting the Board of Directors of La Fe Clinic over an issue of real concern to the Latino community. Police responded to a call that Duran and Mario Lopez were breaking windows at the clinic. Police report says that Duran did not stop his protesting when the officers called him over. The beating ensued as a result. No windows were found broken.	Duran filed a formal complaint with the Police Department, and that hearing is still pending. No reports of Federal involvement regarding this matter. There is evidence that Duran has been harrassed since filing his original complaint for the 3/18/77 incident. Duran's attorney is Russel Aboud.

BRUTALITY CASES (continued)

41) Name: LOZANO, Lorenzo Ortega Date: 1/22/78 Location: Austin, TX	On January 10, 1978, Lozano's car slid off the road. Officers (Ector Dounty deputies Lee Roy Murphy and Gene Kloss) arrived and beat Lozano with a flashlight when he went to take out his license upon their request. Once handcuffed, Lozano was beaten once again, severely. While booking Lozano on two counts of aggravated assault, the booking deputies again beat him severely, again, while handcuffed. His handcuffs were removed, officers engaged him in a fight, and he was beaten still further. Lozano was held in jail for 12 days, and according to witnesses, faced severe harrassment from jailors. On January 22nd, Lozano was removed from isolation. He complained about poor cell conditions, and was immediately taken to a hospital and sedated, whereupon he was returned to a padded cell. That same night, eight officers entered into Lozano's cell, and beat him until he died. Officers include Ector County Sheriff Elton Faught, a Dept. of Public Safety patrolman, a reserve deputy, and a state game warden. The others were Sheriff's Deputies.	FBI initially refused to investigate, deferring to the Texas Rangers. Community pressure has since initiated a federal investigation from the office of the U.S. Attorney, Tony Canales. That investigation, however, is waiting on the inquest by Justice of the Peace Virgil Lumpee, who had initially ruled Lozano's death a suicide on January 22nd. Lumpee is currently awaiting the third Medical Examiner report. First examination concluded that the death was homicide. Local prosecutor, John Green, has promised prosecution if the verdict of the inquest is homicide. Strong evidence of attempted cover-up, e.g. after Lozano's death, the officers involved met at Faught's request to, as one witness stated, "get their stories straight." Faught claims that Lozano was mentally ill, but the question remains, why was he not taken to the hospital after 24 hours, which is Texas law?
42) Name: RODRIGUEZ, Modesto Date: 6/20/75 Location: Frio County, TX	Rodriguez active politically with the Voting Rights issue in Frio County. He met with other Chicanos on this night to discuss information for Justice Dept. attorneys. About 11:00p.m., six police officers from the Texas Alcoholic Beverage Control Agency (ABC), and state and local police forces entered the bar, arrested many present, ordering them outside. Without provocation, Rick Dennis of ABC, approached Rodriguez and struck him hard from behind on the head, after having said some very unfriendly words to him. Dennis and several other officers proceeded to beat and kick him to the ground. At Frio County jail, Rodriguez was processed but not charged, and was denied badly needed medical attention. He was removed for proper treatment in a San Antonio hospital only after many hours, when his medical condition had become grave.	Rodriguez was prosecuted on three criminal counts, including resisting arrest and assaulting an officer. Prosecution dropped these charges after the trial ended in a hung jury. Civil Rights Division of the Justice Dept. has decided not to pursue its investigation. Private action has been filed on Mr. Rodriguez' behalf by San Antonio attorney Gerald Goldstein, and MALDEF. That suit is pending in federal court.

NEW MEXICO

43)	Name: LOPEZ, Richard Date: 10/20/74 Location: Albuquerque, NM	City officers, Eduvigen Luera and Jimmy Steele, stopped Lopez for drunken driving. As officers approached the stopped car, Lopez rolled up his windows and ocked the doors, refusing to emerge upon the orders from the officers. He eventually opened the lock, and a witness states that immediately the officers opened the door and began to beat Lopez without provocation. As a result of the beating and clubbing, Lopez received severe wounds to the face and head. On the way to the police station, Lopez has testified that the officers actually stopped on the freeway and struck him repeatedly.	According to his attorney, Ronald Taylor, Lopez' beating was never investigated by a Grand Jury, or the Federal government. Lopez filed a damage suit in U.S. District Court against the officers, which was settled out of court. Officer Luera, who had a history of such abuse, was forced out of the department.
44)	Name: MOYA, Robert Max Date: 7/14/77 Location: Albuquerque, NM	Officers stopped Moya's father for Driving While Intoxicated. James Babich was one of the arresting officers (SEE RAMIREZ, ANDREW, #25). Robert went outside of his house, where the events were occurring, to investigate. Robert was arrested for concealing his true identity, stemming from a previous encounter with Officer Babich. Robert then ran into his house, with the officers in pursuit. Officers kicked the door in, and Babich walked over to Robert and struck him with his flashlight over the head, without any movement by Robert (this according to Babich's own testimony). Babich grabbed Robert by the hair, dragged him outside, and beat him repeatedly with his flashlight. According to officers, Robert grabbed Babich's gun, at which time Officer Steve Torbett choked him until he passed out. Babich continued to beat Robert with his flashlight until he was unconscious. Robert's mother and sister ran to Robert's aid, were pushed across the room, and arrested for interference.	Robert Moya was convicted and sentenced to five days in jail for interference, resisting arrest, and concealing his true identity from a police officer, all misdemeanors. He was indicted on 3 counts of aggravated assault on a police officer, but was convicted, not for the charged felony, but for misdemeanor assault on an officer. He is now serving a one year sentence, pending appeal by his attorney Joseph Riggs. Before sentencing, Babich killed Andrew Ramirez in a similar flashlight beating. The judge denied Riggs' motion at that time to re-interrogate Babich. No action was taken against Babich. No federal involvement reported.

COLORADO

45) Name: ABEYTA, Richard R.
CRUZ, Barbel
Date: 10/5/75
Location: Central City, CO

Abeyta, Cruz, and Cruz' husband were drinking at a bar when a fight erupted among the group. Officers George Armbright and his brother Paul, city officers, were also drinking at the bar. A bar employee asked the Cruzes and Abeyta to leave, and they did, escorted out by the officers. The officers ordered them out of town. As they were getting into their van to leave, George Armbright approached the van, and during the ensuing confrontation, the window was broken. Officers report that they thought Abeyta had a gun, and as the van drove away, officers fired 11 shots. Officers were some distance from the van when the shooting occurred, however, they claim that the van was used to try to run them down. Abeyta was shot and wounded 3 times, and Barbel Cruz was wounded once.

Attorneys for Abeyta and Cruz are Michael Makaroff and Claude Wilde. They have filed suit in Federal Court in Denver, against the two Central City officers, who they have charged with being intoxicated while on duty. According to the attorneys, they are now working towards an out of court settlement. Jefferson County D.A. investigation concluded that the officers committed no wrongdoing, and took no action. No Federal involvement reported.

46) Name: GONZALES, David
JACKSON, Lawrence
Date: 11/1/74
Location: Pueblo, CO

David involved in an altercation at a local establishment. Hours later, he and brother Lawrence returned to the establishment, at which time police arrived. Without warning City Officer Steve Sutton approached David, swearing at him. He then began to strike David with his club. In defense, David wrestled Sutton to the ground, quickly allowing him to rise. Sutton called for more units, and handcuffed David. At this time, Officer Tepin was chasing Lawrence, and beat him with his flashlight, while handcuffed. Officer claims that Lawrence lunged at him with a mess-kit knife, which the brothers claim Lawrence had dropped upon the arrival of Police. Both brothers were placed in separate cars. In the front seat of one of the units, David was struck repeatedly in the face by Sutton until he passed out. Upon arrival at the jail, David was not accepted due to severe wounds. He was hospitalized. Lawrence received no medical attention. At the jail Lawrence was forced to strip from the waist down, and officers threatened to burn his male organ if he did not sign a statement saying that he had assaulted police with a knife. No officer was reported stabbed.

No private suit filed against officers and there is evidence of court-police collaboration. Lawrence convicted of resisting arrest and 1st degree assault in District Court. He was sentenced to 7-10 years in the state penitentiary. He appealed to the State Supreme Court, which affirmed the lower court decision. This was Lawrence's first offense. David was convicted of resisting arrest and sentenced to one year in the county jail, and this was his first offense. There was no D.A., or Grand Jury investigation. D.A. Joe Losavio has had a very poor record, as there have been many recall actions. Sutton has had a history of brutality (SEE RAEL, FRED, #49, infra).

47) Name: LUCERO, Richard Joseph Date: 7/22/72 Location: Denver, CO	At Curtis Park, in the Chicano community of Denver*, officers called in to rescue a lady trapped in the restroom. Police radioed for more units to assist in opening the door, this according to police reports. As it was Saturday, there were a great many people at the park. Arriving shortly thereafter, assembled in full view, were a dozen police units. They cruised, lights flashing, and the officers dressed in full riot gear. Fear became widespread among the people in the park. Lucero, fearing his son's safety, went in search of him. He stopped to ask an officer what was going on. Two officers proceeded to strike Lucero several times, beating him with clubs, fists, and kicking him as well.	Lucero filed a complaint with the police department, which ruled that the actions did not require disciplinary action. He took the case to the Colorado Civil Rights commission, where he was informed that it had no jurisdiction over the incident. The U.S. sent in the FBI to investigate, but no action was forthcoming. In July '74, attorney for Lucero, James Breeze, filed a damage suit on behalf of his client, against the mayor, the police chief, and the officers involved, Fisher and Molleck. The mayor and the police chief were exonerated of any charges,but a local judge (no jury) found one of the officers had violated Lucero's civil rights by use of excessive force, and ordered a fine of $750.
48) Name: MONTOYA, Raymond Date: 2/28/74 Location: Denver, CO	Montoya was joyriding in a stolen car. He encountered a police car in an alley. Police were not pursuing him but Montoya was frightened, stopped his car and ran. He went down on his knees and hands, and then lost consciousness. He has charged that the officers in pursuit, Warren T. Montoya, and Ross Monahan, clubbed him initially to the ground, and beat him severely while on the ground. He woke up with numerous cuts, bruises on his body and head, broken front teeth, and needed 25 stitches on his head.	Montoya filed a damage suit against the officers in the State District Court. Court ruled that Officer Montoya had used excessive force, but awarded only $500. on a $175,000. complaint. Monahan found not-guilty of any wrongdoing. Prosecution of Raymond Montoya was dismissed on the stolen car charges. In the officer's report it is stated that Raymond fell only once, that he made no resistance, and that he received all his injuries from the fall. In court the officers testified that Raymond resisted greatly. Attorney for Raymond, James Breeze, filed a motion for a new trial, which was denied by the judge, even after Breeze, the Judge, and Officer Montoya met in private chamber, and the latter admitted that he had smashed Raymond's head into the sidewalk. Judge dismissed this admission with criticism of the attorney's "pursuit of this information."

* Curtis Park was also the scene of the deaths of Arthur Espinoza and James Hinojos (7/30/77, SEE case number 26). Although this case is somewhat dated, the continuing brutality in the Chicano community, e.g. Curtis Park, is of serious concern.